State of Alabama
v.
William Michael Kemp

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William Michael, Kemp, Sui Juris
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In Propria Persona

Under Protest, Necessity,
and by Special Visitation

ALABAMA COURT OF CRIMINAL APPEALS

SIXTEENTH APPELLATE DISTRICT

STATE OF ALABAMA Plaintiff v. WILLIAM MICHAEL KEMP [sic], Defendant	Case No. _____ 16th Cir. Case #CC-95-1083-DWS PETITION FOR LEAVE TO APPEAL FROM INTERLOCUTORY ORDER, AND FOR WRIT OF MANDAMUS At law: Substance prevails over form. Authorities: Amendments IV, VI and Supremacy Clause in the Constitution for the United States of America

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state and Defendant in the above entitled action (hereinafter "Defendant"), to petition this honorable Court for a Writ of Mandamus to the Circuit Court, and for leave to appeal four issues:

(1) the interlocutory Order of Circuit Judge Donald W. Stewart to proceed to trial without first determining, as a matter of law, whether the search and seizure of Defendant's private property were reasonable, in light of the fact that no valid warrant was issued prior to said search and seizure;

(2) the interlocutory Order of Circuit Judge Donald W. Stewart to proceed with trial without first ordering the prosecutor to reveal the "nature and cause of the accusation" alleged in the indictment as filed in the instant case;

Petition for Mandamus & Leave to Appeal:

(3) the judicial determination by Judge Donald W. Stewart that Defendant waived one or more of Defendant's fundamental rights, when the record in the instant case fails to exhibit any knowing, intentional, and voluntary acts to that end, done with sufficient awareness of the relevant circumstances and likely consequences; and

(4) the Circuit Court's failure to schedule a hearing specifically to address Defendant's routine motion to continue the matter, pending preparation of Defendant's recently selected counsel to assist with his defense prior to sentencing.

GROUNDS IN SUPPORT OF PETITION

Defendant submits that the actions of the Circuit Court of Etowah County, Alabama state, have deprived defendant of His fundamental Rights to enjoy due process of law, to be secure against unreasonable search and seizures, to know the exact nature and cause of the accusation(s) made against Him, including the specific, unambiguous identity of the plaintiff and specific unambiguous identification of the proper defendant, and to have effective assistance of Counsel for His defense.

Defendant submits that the Circuit Court of Etowah County, Alabama state, was denied jurisdiction to proceed over the subject matter in the first instance, because no valid warrant was issued prior to the search and seizure of Defendant's private property in the instant case, and unrebutted evidence shows that there was no lawful cause for the initial action by the police. The State of Alabama's practice of obtaining search warrants after the fact is unconstitutional on its face and invalidates all such warrants. See Fourth Amendment to the Constitution for the United States of America.

Defendant argues that He is entitled to a Writ of Mandamus to be served upon Circuit Judge Donald Stewart, compelling said Judge to require the Prosecutor in the instant case to produce a proper and lawful Bill of Particulars, detailing the exact nature and cause of the accusation(s) alleged against Defendant in the indictment as previously filed in the instant case, and as previously served upon Defendant. In addition to all other pertinent information, this Bill must properly name the plaintiff and properly name the accused, as must all process.

Defendant submits that the Circuit Court of Etowah County, Alabama state, failed to honor the due process of law when it determined, incorrectly, that the Defendant had waived one or more of Defendant's fundamental Rights in the instant case without any knowing, intentional and voluntary acts to that end, done with sufficient awareness of the relevant circumstances and likely consequence. See Brady v. U.S., 397 U.S. 742 at 748 (1970). Acquiescence in the loss of fundamental Rights is never presumed. See Ohio Bell v. Public Utilities Commission, 301 U.S. 292.

Finally, Defendant submits that the Circuit Court of Etowah County, Alabama state, was arbitrary and capricious when it failed to schedule a hearing specifically to address Defendant's Motion, previously filed in the instant case, to Continue the matter, pending preparation of Defendant's recently selected counsel to assist with His defense prior to sentencing.

The fundamental Right to effective assistance of Counsel is so important and fundamental that, if a trial court should fail to ensure that a criminal Defendant is afforded effective assistance of Counsel at every step in the proceedings, the Court

ousts itself of jurisdiction. See Johnson v. Zerbst, 304 U.S. 458, 468 (1938).

Defendant submits that the Constitution for the United States of America, as lawfully amended (hereinafter "U.S. Constitution"), the laws of the United States (federal government), and the treaties of the United States (federal government), are all as much a part of the law of every Union state as its own local laws and local constitution. This is a fundamental principle in our system of complex national policy. See Hauenstein v. Lynham, 100 U.S. 483, 489-490 (1880).

This principle is particularly applicable in the case of a Citizen of Alabama state who is not also a federal citizen. Confer at "federal citizenship" in Black's Law Dictionary, Sixth Edition. A person who is a federal citizen is necessarily a citizen of the particular state in which s/he resides; but a Person may be a Citizen of a particular state and not a federal citizen. To hold otherwise would be to deny Alabama state the highest exercise of its sovereignty -- the right to declare who are its state Citizens. See State v. Fowler, 41 La. Ann., 380, 6 S. 602 (1889). The Alabama Supreme Court has held as follows:

> There are, then, under our republican form of government, **two classes of citizens**, one of the United States and one of the state. One class of citizenship may exist in a person, without the other, as in the case of a resident of the District of Columbia; but both classes usually exist in the same person.
>
> [Gardina v. Board of Registrars, 160 Ala. 155] [48 S. 788, 791 (1909), emphasis added]

Alabama state is a member, in good standing, of the Union also known as the United States of America. Confer at "Union" in Bouvier's Law Dictionary (any edition). The "United States" and the "United States of America" are distinct legal entities, not one and the same. Alabama state is one of the United States of America.

RELIEF REQUESTED

Wherefore, Defendant petitions this honorable court for a Writ of Mandamus to Circuit Court Judge Donald W. Stewart, for leave to appeal the interlocutory Orders of said judge, and for any other relief which this court deems just and proper, under the circumstances.

VERIFICATION

I, William Michael, Kemp, Sui Juris, hereby declare, under penalty of perjury, under the laws of the United States of America, without the "United States," and under knowledge of the law forbidding false witness before God and men, attest and affirm that I have read the foregoing and know the contents thereof, and that the same is true of My own knowledge, except those matters herein alleged on information and belief, and as to those matters, I believe them to be true, so help me God, pursuant to 28 U.C.C. 1746(1).

Executed on November 22, 1996

Respectfully submitted,

/s/ Mike Kemp

_____

William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least eighteen years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

PETITION FOR LEAVE TO APPEAL
FROM INTERLOCUTOR ORDER, AND
FOR WRIT OF MANDAMUS

by placing one true and correct copy of said document(s) in the

first class United States Mail, with postage prepaid and properly

addressed to the following:

James E. Hedgspeth, Jr.
District Attorney
16th Judicial Circuit
Etowah County Offices
800 Forrest Avenue
Gadsden, Alabama state

Clerk of Court
Circuit Court of Etowah County
Etowah County Court House
800 Forrest Avenue
Gadsden, Alabama state

Executed on November 22, 1996

copy filed by facsimile transmission and United States Mail this
day with the Clerk of the Court of Criminal Appeals

/s/ Mike Kemp
_____
William Michael, Kemp
Citizen of Alabama state

# # #

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Alabama v. Kemp

STATE OF ALABAMA

v.

WILLIAM MICHAEL KEMP

IN THE CIRCUIT COURT OF

ETOWAH COUNTY

ALABAMA

CASE NO. CC-95-1083-DWS

MOTION TO RECUSE

Comes now the presumed defendant, William Michael Kemp, in my proper person by special visitation, in the above styled cause, and moves the Court for the recusal of Judge Donald W. Stewart and Judge William Cardwell for cause, said causes for the recusals being stated in affidavit form [see Exhibit 1, a true copy of the affidavit in question, included for reference] on the tenth day of the tenth month of this year of our Lord one thousand nine hundred and ninety six, and served upon these judges and other officers of the court on the eleventh day of the tenth month of this year of our Lord one thousand nine hundred and ninety six.

Certain facts in contradiction of the affidavit of the tenth day of the tenth month of this year of our Lord one thousand nine hundred and ninety six, which came to light in open court are addressed in the affidavit included in support of this motion, and these contradictory facts do not abate the cause for removal, as the bulk of the affidavit [Exhibit 1] is unaffected and unrebutted.

Attorney: NONE

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AFFIDAVIT OF FACTS

I, a man given the name William Michael by my family Kemp, being competent in mind and in body and not under any legal disability now come to state that I have my own knowledge of the matters herein and hereby declare the following to be true, understanding the consequences of making false statements.

One

In section Six of my affidavit of the tenth day of the tenth month of this year of our Lord one thousand nine hundred and ninety six, I stated that the "...warrant is completely without an affidavit of facts sworn to by another human being."

As was revealed in open court, there did exist an affidavit [Exhibit 2], and said affidavit was unlawfully withheld from me. The net result of this is that I was deprived of a copy of the so called search warrant until actually in the midst of a so-called trial, in contravention of due process of law.

Two

The facts of the affidavit accompanying the alleged search warrant [Exhibit 2] issued for my home after the fact of multiple searches do little to show the total circumstances which led to the warrantless assault on my home, and in fact show a pattern of concealment and deceit, impeaching the warrant as badly as not having an affidavit at all would impeach it.

To wit: the affidavit [Exhibit 2] states that the affiant officer, Todd Entrekin, did not meet face to face with the so called "informant." Nothing was stated in the affidavit nor in testimony how the identity of this "reliable" informant was confirmed, and though he testified that the "informant" stated that he had been in my back yard within the twenty four hours preceding the assault, the officer did not ascertain if the "informant" had my permission to be in my back yard. In point of fact, the "informant" was trespassing, a point often made and never rebutted.

If the officer was familiar enough with this "informant" that he could positively identify him by telephone, then it is obvious that this "informant" is acting as agent for the officer. This circumstance would require that the "informant" be invited or have a warrant, and neither has been demonstrated or even alleged.

Three

The affidavit fails to inform the reader that the physical location of my back porch is completely secluded from any off-site observation, and that in fact the officers in the helicopter helicopter performed an unauthorized search, for which purpose the helicopter was specifically summoned.

The affidavit states that the officer received the information from the "informant" at "0900 hours." The officer stated in sworn testimony that he "had probable cause" at that point, and he sent for a helicopter. Five hours elapsed while he waited for the helicopter, while he considered himself to have probable cause, and he sought no warrant.

Four

The warrantless assault on my home was carried out for what is a misdemeanor violation, though I do not acknowledge that my behavior constituted any crime. However, the alleged "trial" and the affidavit for the search warrant, finally produced, show that this entire effort was aimed at a man with no convictions and with no evidence of felonious behavior. No evidence pre-existing the actual assault on my home was offered on the affidavit for warrant, and no testimony was offered subsequently to indicate any felonious behavior. Yet, multiple searches were performed and an arrest made on the basis of questionable information obtained by unlawful means.

Five

Officer Entrekin testified in open court that he had not informed the judge signatory to the warrant that a search of my home had already been performed, yet in the affidavit he states that "Jay Howell saw weapons in the house." This statement is an outright falsehood, or the testimony offered in court was false.

Six

The affidavit supporting the warrant states "While clearing the house for safety..." in describing the search of the interior my home. This patently unlawful act was made "necessary" by the unconstitutional nature of the statute, and the unlawful methods necessary to enforce these statutes inimical to the Constitution.

Seven

In my affidavit [Exhibit 1], sections Six and Seven, I point out cause for recusal of Judge William Cardwell. This call was on the basis of a warrant issued after search and seizure, for the entrance of a plea in this alleged matter over my repeated objection, and for the issuance of a warrant without an affidavit of facts.

An affidavit, previously concealed from me, was produced at the alleged "trial," and as previously discussed in this affidavit is perhaps more damning of the alleged "warrant" than if it lacked an affidavit. Regardless, the other causes for recusal remain unrebutted and demand recusal of Judge Cardwell from this matter.

Eight

In my affidavit [Exhibit 1], section Seven, I point out cause for recusal of Judge Donald Stewart. The reasons for this call remain unanswered and unrebutted, and are clear in the affidavit [Exhibit 1].

Nine

I am not trained in the convolutions of statute law- however I do know right from wrong through my conscience and the word of God. If anyone can prove error herein, I will retract or correct any erroneous statement. Unless it can be proven with particularity by stating in written affidavit form within thirty days of receipt hereof, all requisite actual evidentiary facts and all requisite actual law, and not merely the ultimate facts and conclusions of law, that this affidavit statement is substantially and materially false, my factual declarations presented herein will prevail, uncontested.

Conclusions

Recusal of Judges Cardwell and Stewart from these proceedings is required for cause stated and for the impropriety of ignoring my lawful challenges.

AFFIDAVIT OF FACTS

I, a man given the name William Michael Kemp, being competent in mind and in body and not under legal disability, now come to state that I have my own knowledge of the matters stated herein, and hereby declare the following to be true, understanding the consequences of making false statements.

One

The Constitution for the United States of America clearly states the source of sovereignty in our nation with the first words of the Preamble: "we, the people of the United States..." As the Constitution begins with the declaration of sovereignty, the body closes (immediately prior to the clause for ratification) in Article VI with the words: "all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

The first ten Articles in Amendment and addition to the Constitution recognize and guarantee and protect my rights and my sovereign status. Failure by any sworn public servant to uphold the letter of the entire Constitution is prima facie evidence of violation of oath of office, cause for criminal and civil actions, and grounds for immediate removal from office.

Two

I, given the name William Michael by my family, Kemp, am entitled to be called by that name, and to answer lawfully to no other. Specifically, I do not answer to the fabricated name

KEMP, WILLIAM MICHAEL; further, I believe that referring to me by this false name is an attempt to create a colorable person so that colorable "law" may be applied.

I deny the name KEMP, WILLIAM MICHAEL and will henceforth return unopened and without prejudice communications from the court which are addressed in this fashion, or in any fashion other than herein described. My proper name is William Michael Kemp, and my mail-to location is in care of two thousand one hundred eight Lookout Street in Gadsden Alabama.

Three

I have the right, should I be properly accused in my proper person of a proper crime, to answer proper charges in my proper person. I need no representation, and certainly do not ascribe to the legal fiction that I am a "pro se attorney" representing myself. I stand before the court in my proper person, under duress and by special visitation, demanding to be informed of the nature and cause of accusations against me. I have not been properly informed of the nature and cause of the accusations made against me.

Four

I have the right to assistance by my choice of counsel for my defense. This is not the right to be "represented," it is my right to choose those who, in my opinion, would provide the best assistance in my defense. This counsel may speak to the court in my stead, or I may speak myself, or both. The concept that only members of the bar or "pro se," "honorary attorneys" may be heard by the court is legal fiction, unlawfully perpetrated by the bar associations whose members practice under an assumed title of nobility, contrary to the Constitution for the united States of America.

I therefore reject the court-imposed label of "pro se," said label applied by the court over my repeated statements to the contrary, and reject attempts by so called judges who would have me give up my rights to an officer of the court, a bar association member, who would "represent" me.

Five

I have the right of due process of law, which includes but is not limited to proper, timely notification in my proper person when my presence is required by the court. This provision of due process, as well as most other provisions have been totally absent throughout the attempted prosecution of me.

I have the right to be secure in my person, house, papers, and effects. The Fourth Amendment to the Constitution requires that warrants pre-exist searches and seizures, and rest upon an affidavit of facts, determined by a judge to contain probable cause for search. Searches and seizures carried out in any other fashion are unlawful on their face, and are in fact criminal acts.

Six

I have the right to an unbiased judge, who is sworn to be bound by and to uphold the Constitution, to preside over any legal proceedings and insure that due process and my other rights, all of which I demand, are observed.

So called judge Cardwell of Etowah County, Alabama state, signed a so called warrant on my place of housekeeping on the eighth day of the ninth month of the year of our Lord one thousand nine hundred ninety five. This so called warrant was signed despite the fact that the search and seizure for which the so called warrant was issued had already taken place. Further, the so called warrant is completely without an affidavit of facts sworn to by another human being.

Seven

On the thirtieth day of the ninth month of this year of our Lord one thousand nine hundred ninety six, so called judge Stewart of Etowah County, Alabama state read a so called record from the so called court of so called judge Cardwell which bore little or no resemblance to the actual events of that day in the first month of this year of our Lord one thousand nine hundred ninety six, which I tape recorded, fearing just such an alteration of the record by the already discredited so called court.

Also on that thirtieth day of the ninth month of this year of our Lord one thousand nine hundred ninety six, so called judge Stewart set a date for a so called trial despite the fact that I had entered no plea, and that no proper notification of the nature and cause of the accusations had been made, and despite the fact that he had been so notified.

Discussions with the so called judge continued, and I indicated to the so called judge that I saw no valid crime for which I should enter a plea, and also indicated to the so called judge that the so called warrants used to excuse the unlawful actions against my person and property were fraudulent.

The so called judge agreed that a challenge to the law and the warrant would be entertained. However, immediately following, the so called judge reiterated that the so called trial would take place on the date which the so called judge had previously set, indicating that any arguments to the contrary were already discounted, without a hearing. This is clear demonstration of prejudice.

Eight

On the eighth day of the ninth month of the year of our Lord one thousand nine hundred and ninety six, officers under the command of Sheriff James Hayes of Etowah County, Alabama assaulted my home without warrant. In the course of this assault, firearms (as well as other items) were removed from my home and are now held in the custody of Sheriff Hayes.

Neglecting for the moment the many unlawful aspects of this action, and pursuant to the conversation which took place on the thirtieth day of the ninth month of this year of our Lord one thousand nine hundred and ninety six among judge Donald Stewart,

District Attorney James Hedgspeth, and me concerning the District Attorney's lack of interest in my firearms, I informed Sheriff Hayes by registered certified mail of my intent to repossess my firearms from his custody on the seventh day of the tenth month of this year of our Lord one thousand nine hundred and ninety six.

Nine

Sheriff Hayes refuses to surrender custody of these firearms, citing the federal Bureau of Alcohol, Tobacco, and Firearms and a section of the US Code which applies to licensed firearms dealers. He states that he is awaiting further instruction from "the court." He has done this despite the fact that even after an alleged warrant was obtained after the fact to give the color of law to his actions, the alleged warrant makes absolutely no mention of firearms to be seized. He is therefore totally without legal foundation for his actions, which are criminal in nature.

Ten

I have the right to be secure in my person, house, papers and effects. The taking of my possessions without warrant is theft, and if accomplished by force, is robbery. I have personal knowledge that at least one officer did enter my place of housekeeping and take at least one firearm without any warrant extant which would have given the officer permission to do so, while another officer held me at gun point on my back porch.

Eleven

If this court is unwilling to instruct its agent, the sheriff, to return my firearms, my only alternative is to vigorously prosecute all persons involved in this armed robbery, the subsequent receipt and retention of this property stolen from me, the conspiracy surrounding the crime, and other criminal acts committed by members of law enforcement and the court. If I receive no notification by the eighteenth day of the tenth month of this year of our Lord one thousand nine hundred ninety six, that my firearms are ordered and immediately available to be returned, prosecution shall proceed. Further, regardless of the court's action or lack thereof, I retain my right to prosecute all officials involved in these matters for all their criminal actions toward me, as well as all my other rights.

This demand conveys no jurisdiction over me to this court, but is rather to point out criminal activities by officers of the court.

Twelve

I have the God-given right to use my land to feed, clothe, house, and provision myself, unimpeded. I have the God-given right to cultivate the land with the plants which the Lord has placed here. I have the God-given right to retain the product of my lawful labor. In fact, I have the God-given duty to labor and produce so that I might obtain the products to sustain myself.

I have the God-given right and duty to sustain myself in the

manner which most seems, through His guidance, appropriate to me, so long as I do not interfere with the rights of another human being. In the absence of my interference with another, the state has no say over my labor, its products, and my private behavior. The state has no financial claim over products which I produce on my own land with my own labor which have no effect which reaches beyond the bounds of my property.

Thirteen

My body and my life are given to me by God me for my use, and are not the property of the state. God placed the earth and all its contents here for our sustenance. The earth and its contents are not within the ownership nor purview of the state, but are rather placed here for the use of human beings.

I suffered a closed head wound at birth, partially paralyzing me and eventually resulting in gran mal, psychomotor epileptic seizures. I have been an insulin dependent diabetic since childhood. I am severely arthritic. None of these conditions are the fault nor the responsibility of the state, nor of any other human being. While they are not my fault, they are exclusively my responsibility, from God.

God having vested in me the responsibility, and the intelligence, and the natural resources to deal with my afflictions, it is within my authority- not that of the state- to decide how to best use the products of God's Creation in my life.

Should the state wish to advise me, they may feel free to do so, but in no way am I obliged to accept the opinion of the state, nor to ask permission for my use of natural products, including hemp.

Fourteen

I have the God-given and Constitutionally guaranteed right to worship God and follow his Word as so suits my conscience. My family Bible, on the first page of the first book, in Genesis 1:26 and following: And God said, Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth.

So God created man in his own image, in the image of God created he him; male and female created he them.

And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish all the earth, and subdue it: and have dominion over the fish of the sea, and the fowl of the air, and over every living thing that moveth upon the earth.

And God said, Behold, I have given you every herb bearing seed, which is upon the face of all the earth, and every tree, in the which is the fruit of a tree yielding seed; to you it shall be for meat.

And to every beast of the earth, and to every fowl of the air, and to every thing that creepeth upon the earth, wherein there is life, I have given every green herb for meat: and it was

so.

And God saw every thing that he had made, and behold, it was very good.

Fifteen

I have the God-given and Constitutionally protected right to pursue, obtain, and propagate knowledge of the natural world, whether it be through literary investigation or production, or through scientific investigation or publication. This is typically referred to as academic freedom.

Sixteen

I have the God given right to defend the body He has given me, and the property with which He has blessed me. Thus springs the Constitutional guarantee of my right to keep and bear arms. Thus the state has no right to my firearms in the absence of their offensive use.

Seventeen

I have the Constitutionally guaranteed right to be secure in my person, house, papers, and effects against searches and seizures which are carried out without an affidavit of complaint against me from another human, which therefrom issues a warrant for search for search and seizure. Specifically, a warrant must be obtained prior to search. This is recognition that lives and property are products and gifts of God, and that rightful ownership is not to be interfered with.

Eighteen

Due to my sovereign status in America and this due to the direct gift of life from God, I am Constitutionally guaranteed the right of due process of law, affording me the opportunity to know how I might have damaged or endangered another human being, to confront this allegedly damaged individual in order to determine whether rights have been violated, and to have my case examined by a jury under no duress or undue influence from either side of the quarrel.

I have the right for this jury to be fully informed of its lawful duty and authority to examine all aspects of the case and to decide guilty or not guilty strictly and solely on the basis of their consciences, if necessary in contravention of "the law."

I have the Constitutionally guaranteed right to be heard before a competent and impartial, Constitutionally loyal judge to insure that due process and all my rights are observed. I have the Constitutionally guaranteed right to my choice of counsel, not subject to the whims of the court due to an allegiance sworn to other than the Constitution.

Nineteen

The Ninth Amendment to the Constitution clearly states that the lack of enumeration in the Constitution of a right does not in any way deny or disparage that right. This affidavit clearly states rights which are clearly being denied by government action.

Twenty

Alcohol is the natural product of yeast feeding on sugar, with alcohol as the product. The Eighteenth Amendment to the Constitution for the united States of America was passed in an attempt to stop the manufacture of and commercial transactions involving alcohol, yet even with this Constitutional Amendment, the private possession of alcohol was not addressed.

This clearly demonstrates the unconstitutionality of the government's interference with Constitutionally guaranteed commerce in the natural products of the earth, without a Constitutional Amendment to that effect.

Further, it demonstrates that absent the repeal of the Bill of Rights, the private possession of any natural substance is outside governmental purview.

Twenty-one

As hemp and its derivatives and extracts are available by prescription, this is in effect a license. As licenses are nothing more than a titles of nobility, entitling one class to behavior which would be illegal for others, this alone causes the criminal statutes prohibiting possession of hemp to be unconstitutional.

Twenty-two

As tobacco is a plant, and not a drug unless the active chemicals are extracted and otherwise used, hemp is a plant. Indeed it contains a substance which has a drug-like effect, but in its natural state it is nothing more than a plant, an herb, and therefore not subject to the restrictions placed upon drugs.

Twenty-three

The Constitution, to which all executive and judicial officers are sworn, clearly states that the rights of government are nonexistent, that all authority is delegated. This delegation is from the empowered sovereigns, the people, to their servants, government. Thus is the requirement that government only stand in the stead of a sovereign human being, having no authority to exist independent of the people. In the circumstances which give rise to this affidavit, there exists no human being for the state to stand in place of. There is no complaint, no injured party..

Twenty-four

I am not trained in the convolutions of statute law- however I do know right from wrong through my conscience and the word of

God. If anyone can prove error herein, I will retract or correct any erroneous statement. Unless it can be proven with particularity by stating in written affidavit form within thirty days of receipt hereof, all requisite actual evidentiary facts and all requisite actual law, and not merely the ultimate facts and conclusions of law, that this affidavit statement is substantially and materially false, my factual declarations presented herein will prevail, uncontested.

Remedy

I hereby require, on the basis of facts presented herein and to avoid even the appearance of impropriety, that William Cardwell and Donald Stewart join William Rhea in recusing themselves from this attempted prosecution of me, or be so ordered.

I hereby require, on the basis of facts presented herein, that Sheriff James Hayes immediately return my firearms and all other property seized from me.

I hereby require, on the basis of facts presented herein, that the alleged, so called search warrant used in this attempted prosecution of me be declared void.

I hereby require, on the basis of facts presented herein and following, that the statutes which attempt a prohibition of hemp, and used to attempt this prosecution of me, be overturned as blatantly contrary to the Bill of Rights, overly broad, maximally intrusive in attempting to control human behavior in a manner outside the purview of government, interfering with religious liberty, perpetuating a "class of nobility" in direct contradiction of the Constitutional edict against such,, and unequally treating similar items- i.e., tobacco, alcohol, and hemp.

It is obvious that the attempt to prohibit alcohol from commerce even with a Constitutional Amendment authorizing such was a dismal failure, never attempted private possession and consumption, greatly contributed to official corruption (as evidenced in this instance and in countless other instances), criminalized behavior which was not criminal in nature, and greatly stressed the fabric of a free society. The attempted prohibition of hemp without any Constitutional authorization is at least as dismal a failure, and is unlawful in addition. The statutes against possession of hemp must be immediately declared void.

I hereby require, on the basis of facts presented herein, that the attempted prosecution of me cease, or be ordered to cease, in its entirety..

Verification

I hereby present this Affidavit of Facts, declaring the truth of my statements, knowing the consequences of making false statements, as per Page One of this Affidavit.

I decline to use a state licensed witness (notary) and instead follow the Biblical example of two witnesses.

/s/ Mike Kemp

_____
William Michael, Kemp, sui juris
by special visitation
mail-to location:
c/o two one zero eight Lookout Street
Gadsden, Alabama
[35904]

Signed and verified on this, the tenth day of the tenth month of this year of our Lord One Thousand Nine Hundred and Ninety Six before these witnesses at Alabama state, Etowah County.

One:_____ Two:_____

Statement itemizing persons served; method of service.

I hereby state that I have placed true and correct copies of the foregoing in the hands of the persons listed below, or their representative on this, the eleventh day of the tenth month of this year of our Lord One Thousand Nine Hundred and Ninety Six, except as noted:

James Hedgspeth, District Attorney of Etowah County, Alabama state

judge Donald Stewart of Etowah County, Alabama state

judge William Cardwell of Etowah County, Alabama state

Sheriff James Hayes of Etowah County, Alabama state

notified via first class mail, postage affixed:

Attorney General Jeff Sessions
State House
11 South Union Street
Montgomery, AL 36130

/s/ Mike Kemp

_____
William Michael, Kemp, sui juris
by Special Visitation

Verification

I hereby present this Affidavit of Facts, declaring the truth of my statements, knowing the consequences of making false statements, as previously stated in this Affidavit.

I decline to use a state licensed witness (notary) and instead follow the Biblical example of two witnesses.

/s/ Mike Kemp

_____
William Michael, Kemp, sui juris
by special visitation

mail-to location:

c/o two one zero eight Lookout Street
Gadsden, Alabama
[35904]

Signed and verified on this, the seventeenth day of the eleventh month of this year of our Lord One Thousand Nine Hundred and Ninety Six before these witnesses at Alabama state, Etowah County.

One:_____ Two:_____

Statement itemizing persons served; method of service.

I hereby state that I have placed true and correct copies of the foregoing in the hands of the persons listed below, or their representative on this, the eighteenth day of the eleventh month of this year of our Lord One Thousand Nine Hundred and Ninety Six.

James Hedgspeth, District Attorney of Etowah County, Alabama state

Judge Donald W. Stewart Circuit Judge of Etowah County, Alabama state

Judge William Cardwell Circuit Judge of Etowah County, Alabama state

Circuit Clerk of Etowah County, Alabama state

/s/ Mike Kemp
_____
William Michael, Kemp, sui juris
by Special Visitation

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
(non-domestic zip code exempt)

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	Case No. _____
Plaintiff [sic]	16th Cir. Case #CC-95-1083-DWS
v.	NOTICE OF PETITION AND VERIFIED PETITION FOR WARRANT OF REMOVAL BY THREE-JUDGE PANEL:
WILLIAM MICHAEL KEMP [sic],	
Defendant [sic]	18 U.S.C. 1964(a); 28 U.S.C. 1331, 1367(a), 1441, 1443(2), 1446, 1746(1), 2284; FRCP Rules 9(h), 11, 38
	JURY TRIAL DEMANDED

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled action (hereinafter "Defendant"), to petition this honorable Court for a Warrant of Removal, pursuant to the authorities cited supra, of State of Alabama case number #CC-95-1083-DWS, from the Circuit Court of Etowah County, Alabama state, into this honorable Court, on the federal questions involved, to wit:

(1) Defendant was denied the effective assistance of Counsel of His choice, in violation of the Sixth Amendment, due

to unlawful discrimination against the non-use of a United States Postal Service ("USPS") Zone Improvement Program ("ZIP") Code in the mailing location used on the envelope in which Defendant transmitted His Counsel's contract retainer, paid under protest with a United States Postal Money Order.

Consequently, Counsel was unable to assist Defendant with timely strategic decisions, and with timely preparation of pleadings which were necessary for Defendant to obtain due process of law, until said retainer arrived at its intended destination. This unnecessary delay constituted an unlawful and prohibited discrimination against the non-use of ZIP codes on first class United States Mail, in violation of Public Law ("P.L.") 91-375, Section 403.

(2) Defendant argues that said mail was non-domestic in origin, and in destination, because the term "domestic," as that term is utilized in the USPS Domestic Mail Services Mail, Section A010.1.2d (no ZIP+4 discount), means the federal zone, i.e. the territory and other property over which the United States has exclusive legislative jurisdiction, pursuant to Article 1, Section 8, Clause 17 ("1:8:17"), and Article 4, Section 3, Clause 2 ("4:3:2"), of the Constitution for the United States of America, as lawfully amended (hereinafter "U.S. Constitution").

(3) Defendant hereby protests the unqualified use of ZIP codes anywhere within the official record now before this honorable Court. USPS ZIP Code use is voluntary, except where a ZIP+4 discount is claimed. See Domestic Mail Services Manual, Section A010.1.2d, formerly Section 122.32. The USPS cannot by law discriminate against the non-use of ZIP codes, see P.L. 91-375, Sec. 403, although it does anyway.

(4) Defendant hereby rebuts any presumption and denies any

allegation that He resides in any federal area, or federal venue, by virtue of the exhibition of ZIP codes and/or two-letter federal abbreviations (e.g. "AL") in documents heretofore presented to this Court and filed in the official record of the instant case.

The Union States, as agents for the People, delegated to Congress the power to establish Post Offices and post Roads, see 1:8:7, 7:1. The use of these Post Offices was never intended to subject Citizens of the several states to the municipal jurisdiction of the United States, even if Congress later decided to create the USPS as a municipal corporation and to underwrite its debts by selling bonds to international banks, and by securing those bonds with future postal revenues.

(5) Defendant argues that federal and state courts are presently abusing the exhibition of ZIP Codes on filed pleadings and other documents, because said courts are secretly attempting to collect revenue for the benefit of the holders of said bonds. These holders in due course have obtained from Congress liens on future postal revenues, not unlike the liens which said holders have also obtained by purchasing United States Treasury Bonds, and similar evidences of indebtedness, with credit which said holders have created quite literally out of thin air, under color of the Federal Reserve Act. Regulations for the Federal Reserve Act have never been promulgated in the Federal Register, severely limiting the application of said Act to federal officers, employees, and contract agents. See 44 U.S.C. 1505(a). Defendant is none of these, notwithstanding any unsubstantiated allegations by Plaintiff to the contrary.

(6) Defendant hereby denies ever having elected to reside within any fictional "State within a state" created by the Buck

Act, see 4 U.S.C. 104-113, Howard v. Sinking Fund of Louisville, 344 U.S. 624 (1953), Schwartz v. O'Hara TP. School Dist., 100 A.2d 621, 625 (1953). There are no regulations in the Code of Federal Regulations ("CFR") imposing these statutes, see CFR Index and Finding Aids, 1/1/93, p. 937, "Referrals to Department of Justice or GAO". Defendant has never been a federal employee and denies being subject in any way to the Public Salary Tax Act of 1939. All acts of Congress are territorial in nature and apply only within its territorial jurisdiction, see American Banana Co. v. United Fruit Co., 213 U.S. 347, 356-357 (1909); U.S. v. Spelar, 338 U.S. 217, 222 (1949); New York Central R.R. Co. v. Chisholm, 268 U.S. 29, 31-32, (1925); and Sandberg v. McDonald, 248 U.S. 185 (1918).

VERIFICATION

I, William Michael, Kemp, Sui Juris, hereby declare, under penalty of perjury, under the laws of the United States of America, without the "United States", and under knowledge of the law forbidding false witness before God and men, attest and affirm that I have read the foregoing and know the contents thereof, and that the same is true of My own knowledge, except those matters herein alleged on information and belief, and as to those matters, I believe them to be true, so help Me God, pursuant to 28 U.S.C. 1746(1).

REMEDY REQUESTED

Wherefore, Defendant hereby petitions this honorable District Court of the United States for a three-judge panel to issue a Warrant of Removal to the Circuit Court of Etowah County, Alabama state, to remove case number #CC-95-1083-DWS from said state court into this District Court of the United States, with all deliberate speed.

Dated: [mm/dd/yy]

Respectfully submitted,

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least eighteen years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE OF PETITION AND VERIFIED PETITION
FOR WARRANT OF REMOVAL BY 3-JUDGE PANEL:
18 U.S.C. 1964(a), 28 U.S.C. 1331, 1367(a), 1441, 1443(2), 1446, 1746(1), 2284; FRCP Rules 9(h), 11, 38

by placing one true and correct copy of said document(s) in first class United States mail, with postage prepaid and properly addressed to the following:

James E. Hedgspeth, Jr. Etowah County Offices c/o 800 Forrest Avenue Gadsden, Alabama state	Clerk of Court District Court of the U.S. [sic] c/o 1729 Fifth Avenue North Birmingham, Alabama state
Clerk of Court Circuit Court of Etowah County c/o 800 Forrest Avenue Gadsden, Alabama state	Clerk of Court Alabama Court of Criminal Appeals c/o P.O. Box 301555 Montgomery, Alabama state
Attorney General Department of Justice 10th and Constitution, N.W. Washington, D.C.	Solicitor General Department of Justice 10th and Constitution, N.W. Washington, D.C.

Executed on [mm/dd/yy]

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state

(expressly not a federal citizen)

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
non-domestic zip code exempt

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic],	)	Case No. #CV-97-H-0022-M
	)	
Plaintiff [sic],	)	16th Cir. Case #CC-95-1083-DWS
	)	
v.	)	NOTICE AND DEMAND FOR TEMPORARY
	)	ASSIGNMENT OF 3 JUDGES FROM THE
WILLIAM MICHAEL KEMP [sic],	)	U.S. COURT OF INTERNATIONAL TRADE
	)	TO PRESIDE OVER THIS DCUS:
Defendant [sic]	)	28 U.S.C. 251, 293, 296, 297,
_____	)	461(b), 2284

Greetings to You:

Chief Judge
United States Court of Appeals for the Eleventh Circuit
c/o 56 Forsyth Street, N.W.
Atlanta, Georgia state

Formal NOTICE AND DEMAND are hereby respectfully made upon You, the Chief Judge, by Me, William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled matter (hereinafter "Defendant"), to present to the Chief Justice of the United States a certificate of necessity that the Chief Justice designate and assign temporarily three (3) competent and qualified judges from the Court of International Trade, and/or other court of competent jurisdiction, to perform judicial duties in this honorable District Court of the United States ("DCUS"). See 28 U.S.C. 251, 293, 296, 297, 461(b); also Evans v. Gore,

253 U.S. 245 (1920) (never overturned).

The authority in Evans is particularly poignant. It is apparent to Defendant, because of exhaustive research which His Counsel has shared with Him, that all sitting United States District Judges in America are appointed to serve in either an Article I, or in an Article IV, capacity at the present time. In this capacity, said Judges do not enjoy the explicit immunity which is found in Article III, Section 1 ("3:1") of the Constitution for the United States of America, as lawfully amended (hereinafter "U.S. Constitution"), to wit:

> The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.
>
> [U.S. Constitution, Article III, Section 1]
> [emphasis added]

Defendant submits that one of the major reasons why said Judges do not enjoy the explicit immunity at 3:1 is the doctrine of territorial heterogeneity. Confer in The Federal Zone: Cracking the Code of Internal Revenue, Fourth Edition, previously available on the Internet via the Alta Vista search engine; see also U.S. v. Lopez, 131 L.Ed.2d 626 (1995):

> Each of these [schools] now has an invisible federal zone [sic] extending 1,000 feet beyond the (often irregular) boundaries of the school property.
>
> [emphasis added]

Here, the U.S. Supreme Court utilized this term as a common noun, without any citations or footnotes. The doctrine of territorial heterogeneity, as such, is summarized as follows in the Conclusions of The Federal Zone: Cracking the Code of Internal Revenue, to wit:

> In exercising its exclusive authority over the federal zone, Congress is not subject to the same constitutional limitations that exist inside the 50 States. For this reason, the areas that are inside and outside the federal zone are heterogeneous with respect to each other. This difference results in a principle of territorial heterogeneity: the areas within the federal zone are subject to one set of rules; the areas without (or outside) the federal zone are subject to a different set of rules. The Constitution rules outside the zone and inside the 50 States. The Congress rules inside the zone and outside the 50 States. The 50 States are, therefore, in one general class, because all constitutional restraints upon Congress are in force throughout the 50 States, without prejudice to any one State. The areas within the federal zone are in a different general class, because these same constitutional restraints simply do not limit Congress inside that zone.
>
> [The Federal Zone, electronic Fifth Edition, Conclusions]

In the pivotal case of Downes v. Bidwell, 182 U.S. 244 (1901), which is discussed at several places in the book The Federal Zone supra, the U.S. Supreme Court established a doctrine whereby the Constitution of the "United States", as such, does not extend beyond the limits of the States which are united by and under it. This doctrine of territorial heterogeneity is now commonly identified as the "Downes Doctrine."

This doctrine has been reinforced by subsequent decisions of the U.S. Supreme Court, notably, the case of Hooven & Allison v. Evatt, 324 U.S. 652 (1945), in which the high Court ruled that the guarantees of the Constitution extend to the federal zone only as Congress has made those guarantees applicable. The United States District Courts ("USDC") are currently established by Congress as territorial (federal zone) courts, with constitutional authority emanating from Article IV, Section 3, Clause 2, to wit:

> The Congress shall have Power to dispose of and make all needed Rules and Regulations respecting the Territory or other Property belonging to the United States; ....
>
> [U.S. Constitution, Art. 4, Sec. 3, Cl. 2]
> [emphasis added]

Defendant wishes to litigate His civil case against the State of Alabama, and against agents of the State of Alabama and of the United States as yet unnamed, in an Article III Court of competent jurisdiction. In particular, Defendant wishes to invoke the judicial power of the United States of America, among several reasons:

(1) in order to challenge the constitutionality of the apportionment of Alabama's congressional districts, and

(2) to enjoin United States agencies from withholding records which Defendant intends to discover in lawful and proper requests submitted under the Freedom of Information Act ("FOIA"), and to order the production of any agency records improperly withheld from Defendant. See 5 U.S.C. 552(a)(4)(B), to wit:

> On complaint, the **district court of the United States** ... has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.
>
> [5 U.S.C. 552(a)(4)(B), emphasis added]

In order for this case to proceed forward, and it is Defendant's fundamental Rights under the Fifth and Sixth Amendments that it do so, this honorable Court must be seated with three (3) competent and qualified Judges who are not subject to any outside executive controls whatsoever.

This means, among other things, that Article III judges must be designated and temporarily appointed to preside over the instant case, whose compensations are not being diminished by federal income taxes, and whose integrity and independence from all other governments, and from all other government branches, are unassailable and beyond question.

Defendant hereby objects strenuously to the existence of any

contract, either verbal or written, either expressed or implied in fact, between any currently seated United States District Judge and the "Internal Revenue Service" [sic], or any other controlling interests, on grounds of conflicts of interest. A completed "Internal Revenue Service" Form 1040 is an expressed, written contract. The "Internal Revenue Service" [sic] is not listed among the bureaus and other departments of the United States Department of the Treasury. See Title 31, United States Code, which has been enacted into positive law, unlike Title 26. See also Internal Revenue Code section 7851(a)(6)(A).

Defendant is guaranteed the fundamental right to an independent and unbiased judiciary. See Evans v. Gore supra. The existence of a contract between presiding Judges and any other branch of the federal government, or any of its agencies, assigns, or instrumentalities, is evidence of a conflict of interest and proof of a dependent and biased judiciary. See Lord v. Kelley, 240 F.Supp. 167, 169 (1965), and compare with Evans v. Gore supra, to measure how far our civilization has degenerated under the Downes Doctrine.

This honorable Court will please take formal judicial notice of the holding and the dicta in Evans, which case proves that American courts have an obligation to rule on matters which properly come before them. Defendant's NOTICE AND DEMAND, as made herein, now come properly before You, Sir.

REMEDY REQUESTED

Wherefore, Defendant hereby makes this formal Demand upon the Chief Judge of the Eleventh Circuit:

(1) to prepare and present to the Chief Justice of the United States a certificate of necessity that the Chief Justice designate and assign temporarily three (3) competent and

qualified judges from the Court of International Trade, or other court of competent jurisdiction, to perform judicial duties in this honorable District Court of the United States;

(2) to file said certificate in the official Court record of the instant case; and

(3) to serve said certificate on all interested parties. See PROOF OF SERVICE infra.

NOTICE OF DEADLINE

Defendant hereby demands that the above requested remedy be granted no later than 5:00 p.m. on Friday, January 31, 1997. Time is of the essence.

Thank you very much for your consideration.

Executed on _____

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state

Executed on January 16, 1997:

/s/ Paul Andrew Mitchell

Paul Andrew, Mitchell, B.A., M.S.
Citizen of Arizona state, federal witness,
Counselor at Law, and Counsel to Defendant

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States," that I am at least 18 years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE AND DEMAND FOR TEMPORARY ASSIGNMENT
OF 3 JUDGES FROM THE U.S. COURT OF INTERNATIONAL TRADE
TO PRESIDE OVER THIS DISTRICT COURT OF THE UNITED STATES:
28 U.S.C. 251, 293, 296, 297, 461(b), 2284

by placing one true and correct copy of said document(s) in first

class U.S. Mail, with postage prepaid and properly addressed to

the following:

James E. Hedgspeth, Jr. Etowah County Offices c/o 800 Forrest Avenue Gadsden [zip code exempt] ALABAMA	Clerk of Court Circuit Court of Etowah County c/o 800 Forrest Avenue Gadsden [zip code exempt] ALABAMA
Solicitor General Department of Justice 10th and Constitution, N.W. Washington [zip code exempt] DISTRICT OF COLUMBIA	Clerk of Court Alabama Court of Criminal Appeals c/o P.O. Box 301555 Montgomery [zip code exempt] ALABAMA
Attorney General Department of Justice 10th and Constitution, N.W. Washington [zip code exempt] DISTRICT OF COLUMBIA	Clerk of Court District Court of the United States c/o 1729 Fifth Avenue North Birmingham [zip code exempt] ALABAMA
Chief Judge 11th Circuit Court of Appeals c/o 56 Forsyth Street, N.W. Atlanta [zip code exempt] GEORGIA	William H. Rehnquist, C.J. Supreme Court of the United States 1 First Street, N.E. Washington [zip code exempt] DISTRICT OF COLUMBIA

Executed on _____

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
(non-domestic zip code exempt)

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	Case No. #CV-97-H-0022-M
Plaintiff [sic]	16th Cir. Case #CC-95-1083-DWS
v.	NOTICE OF EXPLICIT RESERVATION; NOTICE OF MOTION AND MOTION TO STAY PROCEEDINGS FOR FAILING TO COMPLY WITH FEDERAL JURY SELECTION POLICY; AND NOTICE OF CHALLENGE AND CHALLENGE TO CONSTITUTIONALITY OF FEDERAL STATUTE: 28 U.S.C. 297, 517, 518, 1652, 1861, 1865, 1867(d), (e); F.R.Evid. Rules 201(d), 301, 302; Full Faith and Credit Clause
WILLIAM MICHAEL KEMP [sic], Defendant [sic]	

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States (hereinafter "federal citizen"), and Defendant in the above entitled action (hereinafter "Defendant"), to reserve His fundamental Right to abate all jury actions in the instant case, and to Petition this honorable Court for a stay of the instant proceedings, pursuant to the provisions of 28 U.S.C. 1867(d), pending proper and final review of Defendant's challenge to the constitutionality of section 1865 of the federal Jury Selection and Service Act, and to provide notice of same to all interested parties. The offensive statute follows, to wit:

Motion Stay Proceedings, Challenge to Statute:

1865. Qualifications for jury service

(a) The chief judge of the district court, or such other district court judge as the plan may provide ... shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. ...

(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, shall deem any person qualified to serve on grand and petit juries in the district court unless he --

(1) is not a **citizen of the United States** eighteen years old who has resided for a period of one year within the judicial district; ....

[28 U.S.C. 1865, emphasis added]

In stark contrast, it is the policy of the United States that all citizens shall have the opportunity to be considered for service on juries in the district courts of the United States. To be constitutional, and to be consistent with its legislative intent, the term "all citizens", as that term is used in 28 U.S.C. 1861, must be construed to include also Citizens of the freely associated compact states who are not also citizens of the United States (a/k/a "federal citizens"):

1861. Declaration of policy

It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that **all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States**, and shall have an obligation to serve as jurors when summoned for that purpose.

[28 U.S.C. 1861, emphasis added]

Defendant hereby provides notice to all interested party(s) of His sworn (verified) statement of law and facts which constitute a substantial failure by the United States to comply

with the Constitution for the United States of America, as lawfully amended (hereinafter "U.S. Constitution"), and with the provisions of 28 U.S.C. 1861: Declaration of Policy. See 28 U.S.C. 1867(d) & (e); Tenth Amendment.

Federal grand and petit juries consist of members all of whom are citizens of the United States, not necessarily Citizens of Alabama state. See Dyett v. Turner and State v. Phillips infra; Right of Election; voter registration affidavits; U.S. v. Griffith, 2 F.2d 925 (1924). Also confer at "Federal citizenship" in Black's Law Dictionary, Sixth Edition.

By way of introduction to the crucial matters of fact and law which are discussed at length in Defendant's sworn (verified) statement, which is served herewith and incorporated by reference as if set forth fully herein, this honorable Court is hereby respectfully requested to take formal judicial notice of the additional standing authorities on this question:

> We have in our political system a Government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and **each has citizens of its own** .... Slaughter-House Cases
>
> [United States v. Cruikshank, 92 U.S. 542 (1875)]
> [emphasis added]

> A person who is a citizen of the United States** is necessarily a citizen of the particular state in which he resides. But **a person may be a citizen of a particular state and not a citizen of the United States**. To hold otherwise would be to deny to the state the highest exercise of its sovereignty, -- the right to declare who are its citizens.
>
> [State v. Fowler, 41 La. Ann. 380]
> [6 S. 602 (1889), emphasis added]

> There are, then, under our republican form of government, **two classes of citizens**, one of the United States and one of the state. One class of citizenship may exist in a person, without the other, as in the case of a resident of the District of Columbia; but both classes usually exist in the same person.
>
> [Gardina v. Board of Registrars, 160 Ala. 155]
> [48 S. 788, 791 (1909), emphasis added]

Motion Stay Proceedings, Challenge to Statute:

> There are over 100,000 elementary and secondary schools in the United States. ... Each of these now has an invisible **federal zone** [sic] extending 1,000 feet beyond the (often irregular) boundaries of the school property.
>
> [U.S. v. Lopez, 115 S.Ct. 1624 (1995)]
> [emphasis added]

As a Party to the instant case, the Defendant hereby challenges federal jury selection statutes, policies, procedures, practices, customs, and rules (if any) on the ground that no jury can be selected in conformity with section 1861 of Title 28, because Citizens of Alabama state who are not also citizens of the United States (a/k/a federal citizens) are disqualified from serving by virtue of their chosen Citizenship status. See 28 U.S.C. 1867(e); Right of Election; 15 Statutes at Large, Chapter 249 (Section 1), enacted July 27, 1868; jus soli; jus sanguinis. Specifically, the offensive statute forces the following unconstitutional result upon Citizens of Alabama state who choose not also to be citizens of the United States (a/k/a federal citizens):

Decision Table

citizen of United States	Citizen of Alabama state	Qualified to serve	
Yes	Yes	Yes	
Yes	No	Yes	
No	No	No	
No	Yes	No	**

This result ("**") violates the Tenth Amendment by disqualifying Citizens of Alabama state from serving on federal grand and petit juries when they are not also federal citizens, thus denying to accused Citizens of Alabama state a jury of Their Peers when a jury consists only of federal citizens.

An intentional discrimination against a class of persons,

solely because of their class, by officers in charge of the selection and summoning of grand jurors in a criminal case, is a violation of the fundamental Rights of an accused. See Cassell v. Texas, 339 U.S. 282; Atkins v. Texas, 325 U.S. 398; Pierre v. Louisiana, 306 U.S. 354. Such a violation is not excused by the fact that the persons actually selected for jury service otherwise possess the necessary qualifications for jurors as prescribed by statute. See State v. Jones, 365 P.2d 460.

Discrimination in the selection of a grand jury, as prohibited by the U.S. Constitution, means an intentional, systematic non-inclusion because of class. There are two (2) classes of citizenship in America. See Gardina supra; 28 U.S.C. 1652. The statute 28 U.S.C. 1865(b)(1) specifically excludes those classes of Citizens who are not mentioned. *Inclusio unius est exclusio alterius*.

The following statute dramatically demonstrates that Congress appreciates the difference between the two classes, and knows how to discriminate between "white citizens" (read "state Citizens") and "citizens of the United States" (a/k/a federal citizens). The Act of Congress called the Civil Rights Act, 14 U.S. Statutes at Large, p. 27, which was the forerunner of the so-called 14th Amendment, amply shows the intent of Congress, as follows:

> ... [A]ll persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color ... shall have the same right, in every State and Territory in the United States ... to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens.
>
> [emphasis added]

Once a prima facie case for the existence of purposeful discrimination is made out, the burden shifts to the prosecution

in a criminal case to prove otherwise. See Whitus v. Georgia, 385 U.S. 545. Reliance on the so-called Fourteenth Amendment to resolve this matter is moot, because the Fourteenth Amendment [sic] was never lawfully ratified, and because the authorities cited supra allow for the possibility that a Person can be a state Citizen without also being a federal citizen, whether or not the Fourteenth Amendment was lawfully ratified. See State v. Phillips, 540 P.2d 936, 941 (1975); Dyett v. Turner, 20 Utah 2d 403, 439 P.2d 266, 270 (1968); Full Faith and Credit Clause; 28 Tulane Law Review 22; 11 South Carolina Law Quarterly 484; House Congressional Record, June 13, 1967, p. 15641 et seq.

As such, there is no constitutional provision which makes a federal citizen also a citizen of the Union state in which s/he resides, nor is there any constitutional provision which states that the validity of the public debt shall not be questioned.

The judicial history of American citizenship is a subject which is rich in nuance and detail, as demonstrated in Defendant's sworn (verified) statement. For example, at a time when those Islands were in the federal zone, the Supreme Court of the Philippine Islands found that "citizenship," strictly speaking, is a term of municipal law and, according to that Court, it is municipal law which regulates the conditions on which citizenship is acquired:

> Citizenship, says Moore on International Law, strictly speaking, is a term of **municipal law** and denotes the possession within the particular state of full civil and political rights subject to special disqualifications, such as minority, sex, etc. The conditions on which citizenship are [sic] acquired are regulated by **municipal law**. There is no such thing as international citizenship nor international law (aside from that which might be contained in treaties) by which citizenship is acquired.
>
> [Roa v. Collector of Customs, 23 Philippine 315, 332 (1912)]

Indeed, international law is divided roughly into two groups: (1) public international law and (2) private international law. Citizenship is a term of private international law (also known as municipal law) in which the terms "state", "nation" and "country" are all synonymous:

> Private international law assumes a more important aspect in the United States than elsewhere, for the reason that the several states, although united under the same sovereign authority and governed by the same laws for all national purposes embraced by the Federal Constitution, are otherwise, at least so far as private international law is concerned, in the same relation as foreign countries. The great majority of questions of private international law are therefore subject to the same rules when they arise between two states of the Union as when they arise between two foreign countries, and in the ensuing pages the words "state," "nation," and "country" are used synonymously and interchangeably, there being no intention to distinguish between the several states of the Union and foreign countries by the use of varying terminology.
>
> [16 Am Jur 2d, Conflict of Laws, Sec. 2]
> [emphasis added]

Congress does refer to the Union states as "countries." See 28 U.S.C. 297. For purposes of municipal law, the several states are foreign with respect to each other, and also with respect to the municipal jurisdiction of the federal zone.

RELIEF SOUGHT

Wherefore, Defendant petitions this honorable Court for an indefinite stay of the proceedings in the instant case, pending proper review of the substantial issues of law and fact which are alleged in this Motion, and which are documented in Defendant's sworn (verified) statement which is filed herewith in this Court and which is incorporated by reference as if set forth fully herein. In the event that Defendant should prevail on said issues, Defendant explicitly reserves His fundamental Right to abate all federal jury action(s) in the instant case, until such time as Congress lawfully cures the unlawful class discrimination

which is exhibited by the current Jury Selection and Service Act, 28 U.S.C. 1861 et seq.

Executed on: _____

Respectfully submitted,

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state

Executed on January 17, 1997:

/s/ Paul Andrew Mitchell

Paul Andrew, Mitchell, B.A., M.S.
Citizen of Arizona state, federal witness,
Counselor at Law, and Counsel to Defendant

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PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States," that I am at least 18 years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE OF EXPLICIT RESERVATION;
NOTICE OF MOTION AND MOTION TO STAY PROCEEDINGS
FOR FAILING TO COMPLY WITH FEDERAL JURY SELECTION POLICY;
AND NOTICE OF CHALLENGE AND
CHALLENGE TO CONSTITUTIONALITY OF STATUTE:
28 U.S.C. 297, 517, 518, 1652, 1861, 1865, and 1867(d),(e),
Rules 201(d), 301, 302, Federal Rules of Evidence;
Full Faith and Credit Clause

by placing one true and correct copy of said document(s) in first class U.S. Mail, with postage prepaid and properly addressed to the following:

James E. Hedgspeth, Jr.
Etowah County Offices
c/o 800 Forrest Avenue
Gadsden [zip code exempt]
ALABAMA

Clerk of Court
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden [zip code exempt]
ALABAMA

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Clerk of Court
Alabama Court of Criminal Appeals
c/o P.O. Box 301555
Montgomery [zip code exempt]
ALABAMA

Attorney General
Department of Justice
10th and Constitution, N.W.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Clerk of Court
District Court of the United States
c/o 1729 Fifth Avenue North
Birmingham [zip code exempt]
ALABAMA

Chief Judge
11th Circuit Court of Appeals
c/o 56 Forsyth Street, N.W.
Atlanta [zip code exempt]
GEORGIA

William H. Rehnquist, C.J.
Supreme Court of the United States
1 First Street, N.E.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Executed on _____

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state [See USPS Publication #221.]

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
(non-domestic zip code exempt)

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	Case No. #CV-97-H-0022-M
	16th Cir. Case #CC-95-1083-DWS
Plaintiff [sic]	
v.	VERIFIED STATEMENT
	IN SUPPORT OF CHALLENGE TO
WILLIAM MICHAEL KEMP [sic],	FEDERAL JURY SELECTION POLICY
	AND ITS FEDERAL STATUTE:
Defendant [sic]	28 U.S.C. 1746(1), 1861, 1865;
	F.R.Evid. Rules 201(d), 301, 302;
	Full Faith and Credit Clause

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled action (hereinafter "Defendant"), to record this, His Verified Statement in Support of Challenge to Grand Jury Selection Policy and its federal statute. "**We are no longer subjects of a government.**" See "The Meaning of American Citizenship" by the Commissioner of Immigration and Naturalization infra and EXHIBIT "A" attached.

The Undersigned hereby verifies, under penalty of perjury, under the laws of the United States of America, without the "United States," that the following Statement is true and correct, to the best of My current information, knowledge, and belief, so help Me God, pursuant to 28 U.S.C. 1746(1):

Chapter 11:
Sovereignty

The issue of sovereignty as it relates to jurisdiction is a major key to understanding our system of government under the Constitution. In the most common sense of the word, "sovereignty" is autonomy, freedom from external control. The sovereignty of any government usually extends up to, but not beyond, the borders of its jurisdiction. This jurisdiction defines a specific territorial boundary which separates the "external" from the "internal", the "within" from the "without". It may also define a specific function, or set of functions, which a government may lawfully perform within a particular territorial boundary. Black's Law Dictionary, Sixth Edition, defines sovereignty to mean:

> ... [T]he international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation.

On a similar theme, Black's defines "sovereign states" to be those which are not under the control of any foreign power:

> No foreign power or law can have control except by convention. This power of independent action in external and internal relations constitutes complete sovereignty.

It is a well established principle of law that the 50 States are "foreign" with respect to each other, just as the federal zone is "foreign" with respect to each of them (In re Merriam's Estate, 36 NE 505 (1894)). The status of being foreign is the same as "belonging to" or being "attached to" another state or another jurisdiction. The proper legal distinction between the terms "foreign" and "domestic" is best seen in Black's definitions of foreign and domestic corporations, as follows:

> Foreign corporation. A corporation doing business in one state though chartered or incorporated in another state is a foreign corporation as to the first state, and, as such, is required to consent to certain conditions and restrictions in order to do business in such first state.
>
> Domestic corporation. When a corporation is organized and chartered in a particular state, it is considered a domestic corporation of that state.

The federal zone is an area over which Congress exercises exclusive legislative jurisdiction. It is the area over which the federal government exercises its sovereignty. Despite its obvious importance, the subject of federal jurisdiction had been almost entirely ignored outside the courts until the year 1954. In that year, a detailed study of federal jurisdiction was undertaken. The occasion for the study arose from a school playground, of all places. The children of federal employees residing on the grounds of a Veterans' Administration hospital were not allowed to attend public schools in the town where the

hospital was located. An administrative decision against the children was affirmed by local courts, and finally affirmed by the State supreme court. The residents of the area on which the hospital was located were not "residents" of the State, since "exclusive legislative jurisdiction" over this area had been ceded by the State to the federal government.

A committee was assembled by Attorney General Herbert Brownell, Jr. Their detailed study was reported in a publication entitled Jurisdiction over Federal Areas within the States, April 1956 (Volume I) and June 1957 (Volume II). The committee's report demonstrates, beyond any doubt, that the sovereign States and their laws are outside the legislative and territorial jurisdiction of the United States** federal government. They are totally outside the federal zone. A plethora of evidence is found in the myriad of cited court cases (700+) which prove that the United States** cannot exercise exclusive legislative jurisdiction outside territories or places purchased from, or ceded by, the 50 States of the Union. Attorney General Brownell described the committee's report as an "exhaustive and analytical exposition of the law in this hitherto little explored field". In his letter of transmittal to President Dwight D. Eisenhower, Brownell summarized the two volumes as follows:

> Together, the two parts of this Committee's report and the full implementation of its recommendations will provide a basis for reversing in many areas the swing of "the pendulum of power * * * from our states to the central government" to which you referred in your address to the Conference of State Governors on June 25, 1957.
>
> [Jurisdiction over Federal Areas within the States]
> [Letter of Transmittal, page V, emphasis added]

Once a State is admitted into the Union, its sovereign jurisdiction is firmly established over a predefined territory. The federal government is thereby prevented from acquiring legislative jurisdiction, by means of unilateral action, over any area within the exterior boundaries of this predefined territory. State assent is necessary to transfer jurisdiction to Congress:

> The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State. Article 1, Section 8, Clause 17, of the Constitution, provides that legislative jurisdiction may be transferred pursuant to its terms only with the consent of the legislature of the State in which is located the area subject to the jurisdictional transfer.
>
> [Jurisdiction over Federal Areas within the States]
> [Volume II, page 46, emphasis added]

Under Article 1, Section 8, Clause 17 of the Constitution, States of the Union have enacted statutes consenting to the federal acquisition of any land, or of specific tracts of land, within those States. Secondly, the federal government has also made "reservations" of jurisdiction over certain areas in connection with the admission of a State into the Union. A third

means for transfer of legislative jurisdiction has also come into considerable use over time, namely, a general or special statute whereby a State makes a cession of specific functional jurisdiction to the federal government. Nevertheless, the Committee report explained that "... the characteristics of a legislative jurisdiction status are the same no matter by which of the three means the Federal Government acquired such status" [Volume II, page 3]. There is simply no federal legislative jurisdiction without consent by a State, cession by a State, or reservation by the federal government:

> It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise entirely by the State ....
>
> [Jurisdiction over Federal Areas within the States]
> [Volume II, page 45, emphasis added]

The areas which the 50 States have properly ceded to the federal government are called federal "enclaves":

> By this means some thousands of areas have become Federal islands, sometimes called "enclaves," in many respects foreign to the States in which they are situated. In general, not State but Federal law is applicable in an area under the exclusive legislative jurisdiction of the United States**, for enforcement not by State but Federal authorities, and in many instances not in State but in Federal courts.
>
> [Jurisdiction over Federal Areas within the States]
> [Volume II, page 4, emphasis added]

These federal enclaves are considered foreign with respect to the States which surround them, just as the 50 States are considered foreign with respect to each other and to the federal zone: "...[T]he several states of the Union are to be considered as in this respect foreign to each other ...." Hanley v. Donoghue, 116 U.S. 1 (1885). Once a State surrenders its sovereignty over a specific area of land, it is powerless over that land; it is without authority; it cannot recapture any of its transferred jurisdiction by unilateral action, just as the federal government cannot acquire jurisdiction over State area by its unilateral action. The State has transferred its sovereign authority to a foreign power:

> Once a State has, by one means or another, transferred jurisdiction to the United States**, it is, of course, powerless to control many of the consequences; without jurisdiction, it is without the authority to deal with many of the problems, and having transferred jurisdiction to the United States**, it cannot unilaterally capture any of the transferred jurisdiction.

[Jurisdiction over Federal Areas within the States]
[Volume II, page 7, emphasis added]

Once sovereignty has been relinquished, a State no longer has the authority to enforce criminal laws in areas under the exclusive jurisdiction of the United States**. Privately owned property in such areas is beyond the taxing authority of the State. Residents of such areas are not "residents" of the State, and hence are not subject to the obligations of residents of the State, and are not entitled to any of the benefits and privileges conferred by the State upon its residents. Residents of federal enclaves usually cannot vote, serve on juries, or run for office. They do not, as matter of right, have access to State schools, hospitals, mental institutions, or similar establishments.

The acquisition of exclusive jurisdiction by the Federal Government renders unavailable to the residents of the affected areas the benefits of the laws and judicial and administrative processes of the State relating to adoption, the probate of wills and administration of estates, divorce, and many other matters. Police, fire-fighting, notaries, coroners, and similar services performed by, or under, the authority of a State may result in legal sanction within a federal enclave. The "old" State laws which apply are only those which are consistent with the laws of the "new" sovereign authority, using the following principle from international law:

> The vacuum which would exist because of the absence of State law or Federal legislation with respect to civil matters in areas under Federal exclusive legislative jurisdiction has been partially filled by the courts, through extension to these areas of a rule of international law that[,] when one sovereign takes over territory of another[,] the laws of the original sovereign in effect at the time of the taking[,] which are not inconsistent with the laws or policies of the second[,] continue in effect, as laws of the succeeding sovereign, until changed by that sovereign.

[Jurisdiction over Federal Areas within the States]
[Volume II, page 6, commas added for clarity]
[emphasis added]

It is clear, then, that only one "state" can be sovereign at any given moment in time, whether that "state" be one of the 50 Union States, or the federal government of the United States**. Before ceding a tract of land to Congress, a State of the Union exercises its sovereign authority over any land within its borders:

> Save only as they are subject to the prohibitions of the Constitution, or as their action in some measure conflicts with the powers delegated to the national government or with congressional legislation enacted in the exercise of those powers, the governments of the states are sovereign within their territorial limits and have exclusive jurisdiction over persons and property located therein.

[72 American Jurisprudence 2d, Section 4]

[emphasis added]

After a State has ceded a tract of land to Congress, the situation is completely different. The United States**, as the "succeeding sovereign", then exercises its sovereign authority over that land. In this sense, sovereignty is indivisible, even though the Committee's report documented numerous situations in which jurisdiction was actually shared between the federal government and one of the 50 States. Even in this situation, however, sovereignty rests either in the State, or in the federal government, but never both. Sovereignty is the authority to which there is politically no superior. Outside the federal zone, the States of the Union remain sovereign, and their laws are completely outside the exclusive legislative jurisdiction of the federal government of the United States**.

This understanding of the separate sovereignties possessed by each of the State and federal governments was not only valid during the Eisenhower administration; it has been endorsed by the U.S. Supreme Court as recently as 1985. In that year, the high Court examined the "dual sovereignty doctrine" when it ruled that successive prosecutions by two States for the same conduct were not barred by the Double Jeopardy Clause of the Fifth Amendment. The "crucial determination" turned on whether State and federal powers derive from separate and independent sources. The Supreme Court explained that the doctrine of dual sovereignty has been uniformly upheld by the courts:

> It has been uniformly held that the States are separate sovereigns with respect to the Federal Government because each State's power to prosecute derives from its inherent sovereignty, preserved to it by the Tenth Amendment, and not from the Federal Government. Given the distinct sources of their powers to try a defendant, the States are no less sovereign with respect to each other than they are with respect to the Federal Government.

[Heath v. Alabama, 474 U.S. 82, 89-90 (1985)]
[emphasis added]

Now, if a State of the Union is sovereign, is it correct to say that the State exercises an authority to which there is absolutely no superior? No, this is not a correct statement. There is no other organized body which is superior to the organized body which retains sovereignty. The sovereignty of governments is an authority to which there is no organized superior, but there is absolutely a superior body, and that superior body is the People of the United States*** of America:

> The words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty.

[Dred Scott v. Sandford, 19 How. 393 (1856)]

[emphasis added]

The source of all sovereignty in a constitutional Republic like the 50 States, united by and under the Constitution for the United States of America, is the People themselves. Remember, the States, and the federal government acting inside those States, are both bound by the terms of a contract known as the U.S. Constitution. That Constitution is a contract of delegated powers which ultimately originate in the sovereignty of the Creator, who endowed creation, individual People like you and me, with sovereignty in that Creator's image and likeness. Nothing stands between us and the Creator. I think it is fair to say that the Supreme Court of the United States was never more eloquent when it described the source of sovereignty as follows:

> Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is indeed, quite true, that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration the responsibility is purely political, no appeal except to the ultimate tribunal of the public judgement, exercised either in the pressure of opinion or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth "may be a government of laws and not of men." For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.
>
> [Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886)]
> [emphasis added]

More recently, the Supreme Court reiterated the fundamental importance of US the People as the source of sovereignty, and the subordinate status which Congress occupies in relation to the sovereignty of the People. The following language is terse and right on point:

> In the United States***, sovereignty resides in the people who act through the organs established by the Constitution. [cites omitted] The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared.
>
> [Perry v. United States, 294 U.S. 330, 353 (1935)]

[emphasis added]

No discussion of sovereignty would be complete, therefore, without considering the sovereignty that resides in US, the People. The Supreme Court has often identified the People as the source of sovereignty in our republican form of government. Indeed, the federal Constitution guarantees to every State in the Union a "Republican Form" of government, in so many words:

> Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; ....
>
> [United States Constitution, Article 4, Section 4]
> [emphasis added]

What exactly is a "Republican Form" of government? It is one in which the powers of sovereignty are vested in the People and exercised by the People. Black's Law Dictionary, Sixth Edition, makes this very clear in its various definitions of "government":

> Republican government. One in which the powers of sovereignty are vested in the people and are exercised by the people, either directly, or through representatives chosen by the people, to whom those powers are specially delegated. In re Duncan, 139 U.S. 449, 11 S.Ct. 573, 35 L.Ed. 219; Minor v. Happersett, 88 U.S. (21 Wall.) 162, 22 L.Ed. 627.

The Supreme Court has clearly distinguished between the operation of governments in Europe, and government in these United States*** of America, as follows:

> In Europe, the executive is almost synonymous with the sovereign power of a State; and generally includes legislative and judicial authority. ... Such is the condition of power in that quarter of the world, where it is too commonly acquired by force or fraud, or both, and seldom by compact. In America, however, the case is widely different. Our government is founded upon compact. Sovereignty was, and is, in the people.
>
> [Glass v. The Sloop Betsey, 3 Dall 6 (1794)]
> [emphasis added]

The federal Constitution makes a careful distinction between natural born Citizens and citizens of the United States** (compare 2:1:5 with Section 1 of the so-called 14th Amendment). One is an unconditional Sovereign by natural birth, who is endowed by the Creator with certain unalienable rights; the other has been granted the revocable privileges of U.S.** citizenship, endowed by the Congress of the United States**. One is a Citizen, the other is a subject. One is a Sovereign, the other is a subordinate. One is a Citizen of our constitutional Republic; the other is a citizen of a legislative democracy (the federal zone). Notice the superior/subordinate relationship between these two statuses. I am forever indebted to M. J. "Red"

Beckman, co-author of The Law That Never Was with Bill Benson, for clearly illustrating the important difference between the two. Red Beckman has delivered many eloquent lectures based on the profound simplicity of the following table:

Chain of command and authority in a:

Majority Rule	Constitutional
Democracy	Republic
X	Creator
Majority	Individual
Government	Constitution
Public Servants	Government
Case & Statute Law	Public Servants
Corporations	Statute Law
individual	Corporations

In this illustration, a democracy ruled by the majority places the individual at the bottom, and an unknown elite, Mr. "X" at the top. The majority (or mob) elects a government to hire public "servants" who write laws primarily for the benefit of corporations. These corporations are either owned or controlled by Mr. X, a clique of the ultra-wealthy who seek to restore a two-class "feudal" society. They exercise their vast economic power so as to turn all of America into a "feudal zone". The rights of individuals occupy the lowest priority in this chain of command. Those rights often vanish over time, because democracies eventually self-destruct. The enforcement of laws within this scheme is the job of administrative tribunals, who specialize in holding individuals to the letter of all rules and regulations of the corporate state, no matter how arbitrary and with little if any regard for fundamental human rights:

> A democracy that recognizes only manmade laws perforce obliterates the concept of Liberty as a divine right.
>
> [A Ticket to Liberty, November 1990 edition, page 146]
> [emphasis added]

In the constitutional Republic, however, the rights of individuals are supreme. Individuals delegate their sovereignty to a written contract, called a constitution, which empowers government to hire public servants to write laws primarily for the benefit of individuals. The corporations occupy the lowest priority in this chain of command, since their primary objectives are to maximize the enjoyment of individual rights, and to facilitate the fulfillment of individual responsibilities. The enforcement of laws within this scheme is the responsibility of sovereign individuals, who exercise their power in three arenas: the voting booth, the trial jury, and the grand jury. Without a jury verdict of "guilty", for example, no law can be enforced and no penalty exacted. The behavior of public servants is tightly restrained by contractual terms, as found in the written Constitution. Statutes and case law are created primarily to limit and define the scope and extent of public servant power.

Sovereign individuals are subject only to a Common Law,

whose primary purposes are to protect and defend individual rights, and to prevent anyone, whether public official or private person, from violating the rights of other individuals. Within this scheme, Sovereigns are never subject to their own creations, and the constitutional contract is such a creation. To quote the Supreme Court, "No fiction can make a natural born subject." Milvaine v. Coxe's Lessee, 8 U.S. 598 (1808). That is to say, no fiction, be it a corporation, a statute law, or an administrative regulation, can mutate a natural born Sovereign into someone who is subject to his own creations. Author and scholar Lori Jacques has put it succinctly as follows:

> As each state is sovereign and not a territory of the United States**, the meaning is clear that state citizens are not subject to the legislative jurisdiction of the United States**. Furthermore, there is not the slightest intimation in the Constitution which created the "United States" as a political entity that the "United States" is sovereign over its creators.
>
> [A Ticket to Liberty, November 1990 edition, page 32]
> [emphasis added]

Accordingly, if you choose to investigate the matter, you will find a very large body of legal literature which cites another fiction, the so-called 14th Amendment, from which the federal government presumes to derive general authority to treat everyone in America as subjects and not as Sovereigns:

> Section 1. All persons born or naturalized in the United States**, and subject to the jurisdiction thereof, are citizens of the United States** and of the State wherein they reside.
>
> [United States Constitution, Fourteenth Amendment [sic]]
> [emphasis added]

A careful reading of this amendment reveals an important subtlety which is lost on many people who read it for the first time. The citizens it defines are second class citizens because the "c" is lower-case, even in the case of the State citizens it defines. Note how the amendment defines "citizens of the United States**" and "citizens of the State wherein they reside"! It is just uncanny how the wording of this amendment closely parallels the Code of Federal Regulations (CFR) which promulgates Section 1 of the Internal Revenue Code (IRC). Can it be that this amendment had something to do with subjugation, by way of taxes and other means? Yes, it most certainly did. Section 1 of the IRC is the section which imposes income taxes. The corresponding section of the CFR defines who is a "citizen" as follows:

> Every person born or naturalized in the United States** and subject to its jurisdiction is a citizen.
>
> [26 CFR 1.1-1(c), emphasis added]

Notice the use of the term "its jurisdiction". This leaves no doubt that the "United States**" is a singular entity in this

context. In other words, it is the federal zone. Do we dare to speculate why the so-called 14th Amendment was written instead with the phrase "subject to the jurisdiction thereof"? Is this another case of deliberate ambiguity? You be the judge.

Not only did this so-called "amendment" fail to specify which meaning of the term "United States" was being used; like the 16th Amendment, it also failed to be ratified, this time by 15 of the 37 States which existed in 1868. The House Congressional Record for June 13, 1967, contains all the documentation you need to prove that the so-called 14th Amendment was never ratified into law (see page 15641 et seq.). For example, it itemizes all States which voted against the proposed amendment, and the precise dates when their Legislatures did so. "I cannot believe that any court, in full possession of its faculties, could honestly hold that the amendment was properly approved and adopted." State v. Phillips, 540 P.2d. 936, 941 (1975). The Utah Supreme Court has detailed the shocking and sordid history of the 14th Amendment's "adoption" in the case of Dyett v. Turner, 20 Utah 2d 403, 439 P.2d 266, 270 (1968).

A great deal of written material on the 14th Amendment has been assembled into computer files by Richard McDonald, whose mailing address is 585-D Box Canyon Road, Canoga Park, California Republic (not "CA"). He requests that ZIP codes not be used on his incoming mail (use "ZIP code exempt (DMM 122.32)" instead). Richard McDonald has done a mountain of legal research and writing on the origins and effects of the so-called 14th Amendment. He documents how key court decisions like the Slaughter House Cases, among many others, all found that there is a clear distinction between a Citizen of a State and a citizen of the United States** . A State Citizen is a Sovereign, whereas a citizen of the United States** is a subject of Congress. The exercise of federal citizenship is a statutory privilege which can be taxed with excises. The exercise of State Citizenship is a Common Law Right which simply cannot be taxed because governments cannot tax the exercise of a right, ever.

The case of U.S. v. Cruikshank is famous, not only for confirming this distinction between State Citizens and U.S.** citizens, but also for establishing a key precedent in the area of due process. This precedent underlies the "void for vagueness" doctrine which can and should be applied to nullify the IRC. On the issue of citizenship, the Cruikshank court ruled as follows:

> We have in our political system a government of the United States** and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States** and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. Slaughter-House Cases
>
> [United States v. Cruikshank, 92 U.S. 542 (1875)]
> [emphasis added]

The leading authorities for this pivotal distinction are, indeed,

a series of U.S. Supreme Court decisions known as the Slaughter House Cases, which examined the so-called 14th Amendment in depth. An exemplary paragraph from these cases is the following:

> It is quite clear, then, that there is a citizenship of the United States** and a citizenship of a State, which are distinct from each other and which depend upon different characteristics or circumstances in the individual.
>
> [Slaughter House Cases, 83 U.S. 36, 16 Wall. 36]
> [21 L.Ed. 394 (1873), emphasis added]

A similar authority is found in the case of K. Tashiro v. Jordan, decided by the Supreme Court of the State of California almost fifty years later. Notice, in particular, how the California Supreme Court again cites the Slaughter House Cases:

> That there is a citizenship of the United States** and a citizenship of a state, and the privileges and immunities of one are not the same as the other is well established by the decisions of the courts of this country. The leading cases upon the subjects are those decided by the Supreme Court of the United States and reported in 16 Wall. 36, 21 L. Ed. 394, and known as the Slaughter House Cases.
>
> [K. Tashiro v. Jordan, 256 P. 545, 549 (1927)]
> [affirmed 278 U.S. 123 (1928)]
> [emphasis added]

The Slaughter House Cases are quite important to the issue of citizenship, but the pivotal case on the subject is the famous Dred Scott decision, decided in 1856, prior to the Civil War. In this case, the U.S. Supreme Court wrote one of the longest decisions in the entire history of American jurisprudence. In arriving at their understanding of the precise meaning of Citizenship, as understood by the Framers of the Constitution, the high Court left no stone unturned in their search for relevant law:

> We have the language of the Declaration of Independence and of the Articles of Confederation, in addition to the plain words of the Constitution itself: we have the legislation of the different States, before, about the time, and since the Constitution was adopted; we have the legislation of Congress, from the time of its adoption to a recent period; and we have the constant and uniform action of the Executive Department, all concurring together, and leading to the same result. And if anything in relation to the construction of the Constitution can be regarded as settled, it is that which we now give to the word "citizen" and the word "people."
>
> [Dred Scott v. Sandford, 19 How. 393 (1856)]
> [emphasis added]

In the fundamental law, the notion of a "citizen of the United States" simply did not exist before the 14th Amendment; at best, this notion is a fiction within a fiction. In

discussing the power of the States to naturalize, the California State Supreme Court put it rather bluntly when it ruled that there was no such thing as a "citizen of the United States":

> A citizen of any one of the States of the union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing. To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deduced from its various other provisions. The object then to be attained, by the exercise of the power of naturalization, was to make citizens of the respective States.
>
> [Ex Parte Knowles, 5 Cal. 300 (1855)]
> [emphasis added]

This decision has never been overturned!

What is the proper construction and common understanding of the term "Citizen of the United States" as used in the original Constitution, before the so-called 14th Amendment? This is an important question, because this status is still a qualification for the offices of Senator, Representative and President. No Person can be a Representative unless he has been a Citizen of the United States for seven years (1:2:2); no Person can be a Senator unless he has been a Citizen of the United States for nine years (1:3:3); no Person can be President unless he is a natural born Citizen, or a Citizen of the United States (2:1:5). If these requirements had been literally obeyed, there could have been no elections for Representatives to Congress for at least seven years after the adoption of the Constitution, and no one would have been eligible as a Senator for nine years after its adoption. Author John S. Wise, in a rare book now available on Richard McDonald's electronic bulletin board system (BBS), explains away the problem very simply as follows:

> The language employed by the convention was less careful than that which had been used by Congress in July of the same year, in framing the ordinance for the government of the Northwest Territory. Congress had made the qualification rest upon citizenship of "one of the United States***," and this is doubtless the intent of the convention which framed the Constitution, for it cannot have meant anything else.
>
> [Studies in Constitutional Law:
> [A Treatise on American Citizenship]
> [by John S. Wise, Edward Thompson Co. (1906)]
> [emphasis added]

This quote from the Northwest Ordinance is faithful to the letter and to the spirit of that law. In describing the eligibility for "representatives" to serve in the general assembly for the Northwest Territory, the critical passage from that Ordinance reads as follows:

> ... Provided, That no person be eligible or qualified to act

> as a representative, unless he shall have been a citizen of one of the United States*** three years, and be a resident in the district, or unless he shall have resided in the district three years; ....
>
> [Northwest Ordinance, Section 9, July 13, 1787]
> [The Confederate Congress, emphasis added]

Without citing the case as such, the words of author John S. Wise sound a close, if not identical parallel to the argument for the Respondent filed in the case of People v. De La Guerra, decided by the California Supreme Court in 1870. The following long passage elaborates the true meaning of the Constitutional qualifications for President and Representative:

> As it was the adoption of the Constitution by the Conventions of nine States that established and created the United States***, it is obvious there could not then have existed any person who had been seven years a citizen of the United States***, or who possessed the Presidential qualifications of being thirty-five years of age, a natural born citizen, and fourteen years a resident of the United States***. The United States*** in these provisions, means the States united. To be twenty-five years of age, and for seven years to have been a citizen of one of the States which ratifies the Constitution, is the qualification of a representative. To be a natural born citizen of one of the States which shall ratify the Constitution, or to be a citizen of one of said States at the time of such ratification, and to have attained the age of thirty-five years, and to have been fourteen years a resident within one of the said States, are the Presidential qualifications, according to the true meaning of the Constitution.
>
> [People v. De La Guerra, 40 Cal. 311, 337 (1870)]
> [emphasis added]

Indeed, this was the same exact understanding that was reached by the U.S. Supreme Court in the Dred Scott decision. There, the high Court clearly reinforced the sovereign status of Citizens of the several States. The sovereigns are the Union State Citizens, i.e. the Citizens of the States United:

> It is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guarantied [sic] to citizens of this new sovereignty were intended to embrace those only who were then members of the several state communities, or who should afterwards, by birthright or otherwise, become members, according to the provisions of the Constitution and the principles on which it was founded.
>
> [Dred Scott v. Sandford, 19 How. 393, 404 (1856)]
> [emphasis added]

Thus, the phrase "Citizen of the United States" as found in the original Constitution is synonymous with the phrase "Citizen of one of the United States***", i.e., a Union State Citizen. This simple explanation will help to cut through the mountain of propaganda and deception which have been foisted on all Americans by government bureaucrats and their high-paid lawyers. With this understanding firmly in place, it is very revealing to discover that many reprints of the Constitution now utilize a lower-case "c" in the sections which describe the qualifications for the offices of Senator, Representative and President. This is definitely wrong, and it is probably deliberate, so as to confuse everyone into equating Citizens of the United States with citizens of the United States, courtesy of the so-called 14th Amendment. There is a very big difference between the two statuses, not the least of which is the big difference in their respective liabilities for the income tax.

Moreover, it is quite clear that one may be a State Citizen without also being a "citizen of the United States", whether or not the 14th Amendment was properly ratified! According to the Louisiana Supreme Court, the highest exercise of a State's sovereignty is the right to declare who are its own Citizens:

> A person who is a citizen of the United States** is necessarily a citizen of the particular state in which he resides. But a person may be a citizen of a particular state and not a citizen of the United States**. To hold otherwise would be to deny to the state the highest exercise of its sovereignty, -- the right to declare who are its citizens.
>
> [State v. Fowler, 41 La. Ann. 380]
> [6 S. 602 (1889), emphasis added]

In a book to which this writer has returned time and time again, author Alan Stang faithfully recites some of the other relevant court authorities, all of which ultimately trace back to the Slaughter House Cases and the Dred Scott decision:

> Indeed, just as one may be a "citizen of the United States" and not a citizen of a State; so one apparently may be a citizen of a State but not of the United States. On July 21, 1966, the Court of Appeal of Maryland ruled in Crosse v. Board of Supervisors of Elections, 221 A.2d 431; a headnote in which tells us: "**Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state** ...." At page 434, Judge Oppenheimer cites a Wisconsin ruling in which the court said this: "Under our complex system of government, there may be a **citizen of a state, who is not a citizen of the United States** in the full sense of the term ...."
>
> [Tax Scam, 1988 edition, pages 138-139]
> [emphasis added]

Conversely, there may be a citizen of the United States** who is

not a Citizen of any of the 50 States. In People v. De La Guerra quoted above, the published decision of the California Supreme Court clearly maintained this crucial distinction between the two classes of citizenship, and did so only two years after the alleged ratification of the so-called 14th Amendment:

> I have no doubt that those born in the Territories, or in the District of Columbia, are so far citizens as to entitle them to the protection guaranteed to citizens of the United States** in the Constitution, and to the shield of nationality abroad; but it is evident that **they have not the political rights which are vested in citizens of the States. They are not constituents of any community in which is vested any sovereign power of government. Their position partakes more of the character of subjects than of citizens.** They are subject to the laws of the United States**, but have no voice in its management. If they are allowed to make laws, the validity of these laws is derived from the sanction of a Government in which they are not represented. Mere citizenship they may have, but **the political rights of citizens they cannot enjoy until they are organized into a State, and admitted into the Union.**
>
> [People v. De La Guerra, 40 Cal. 311, 342 (1870)]
> [emphasis added]

Using language that was much more succinct, author Luella Gettys, Ph.D. and "Sometime Carnegie Fellow in International Law" at the University of Chicago, explained it quite nicely this way:

> ... [A]s long as the territories are not admitted to statehood no state citizenship therein could exist.
>
> [The Law of Citizenship in the United States]
> [Chicago, Univ. of Chicago Press, 1934, p. 7]

This clear distinction between the Union States and the territories is endorsed officially by the U.S. Supreme Court. Using language very similar to that of the California Supreme Court in the De La Guerra case, the high Court explained the distinction this way in the year 1885, seventeen years after the adoption of the so-called 14th amendment:

> The people of the United States***, as sovereign owners of the national territories, have supreme power over them and their inhabitants. ... The personal and civil rights of the inhabitants of the territories are secured to them, as to other citizens, by the principles of constitutional liberty, which restrain all the agencies of government, state and national; **their political rights are franchises which they hold as privileges in the legislative discretion of the congress of the United States****. This doctrine was fully and forcibly declared by the chief justice, delivering the opinion of the court in National Bank v. County of Yankton, 101 U.S. 129.
>
> [Murphy v. Ramsey, 114 U.S. 15 (1885)]
> [italics in original, emphasis added]

The political rights of the federal zone's citizens are "franchises" which they hold as "privileges" at the discretion of the Congress of the United States**. Indeed, the doctrine declared earlier in the National Bank case leaves no doubt that Congress is the municipal authority for the territories:

> All territory within the jurisdiction of the United States* not included in any State must, necessarily, be governed by or under the authority of Congress. The Territories are but political subdivisions of the outlying dominion of the United States**. They bear much the same relation to the General Government that counties do to the States, and Congress may legislate for them as States do for their respective municipal organizations. The organic law of a Territory takes the place of a constitution, as the fundamental law of the local government. It is obligatory on and binds the territorial authorities; but Congress is supreme and, for the purposes of this department of its governmental authority, has all the powers of the People of the United States***, except such as have been expressly or by implication reserved in the prohibitions of the Constitution.
>
> [First National Bank v. Yankton, 101 U.S. 129 (1880)]
> [emphasis added]

This knowledge can be extremely valuable. In one of the brilliant text files on his electronic bulletin board system (BBS), Richard McDonald utilized his voluminous research into the so-called 14th Amendment and related constitutional law when he made the following pleading in opposition to a traffic citation, of all things, in Los Angeles county municipal court:

> 17. The Accused Common-Law Citizen [Defendant] hereby places all parties and the court on NOTICE, that he is not a "citizen of the United States**" under the so-called 14th Amendment, a juristic person or a franchised person who can be compelled to perform to the regulatory Vehicle Codes which are civil in nature, and challenges the In Personam jurisdiction of the Court with this contrary conclusion of law. This Court is now mandated to seat on the law side of its capacity to hear evidence of the status of the Accused Citizen.
>
> [see MEMOLAW.ZIP on Richard McDonald's electronic BBS]
> [see also FMEMOLAW.ZIP and Appendix Y, emphasis added]

You might be wondering why someone would go to so much trouble to oppose a traffic citation. Why not just pay the fine and get on with your life? The answer lies, once again, in the fundamental and supreme Law of our Land, the Constitution for the United States of America. Sovereign State Citizens have learned to assert their fundamental rights, because rights belong to the belligerent claimant in person. The Constitution is the last bastion of the Common Law in our country. Were it not for the Constitution, the Common Law would have been history a long time ago. The interpretation of the Constitution is directly

influenced by the fact that its provisions are framed in the language of the English common law:

> There is, however, one clear exception to the statement that there is no national common law. The interpretation of the constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history.
>
> [United States v. Wong Kim Ark, 169 U.S. 891, 893 (1898)] [emphasis added]

Under the Common Law, we are endowed by our Creator with the right to travel. "Driving", on the other hand, is defined in State Vehicle Codes to mean the act of chauffeuring passengers for hire. "Passengers" are those who pay a "driver" to be chauffeured. Guests, on the other hand, are those who accompany travelers without paying for the transportation. Driving, under this definition, is a privilege for which a State can require a license. Similarly, if you are a citizen of the United States**, you are subject to its jurisdiction, and a State government can prove that you are obligated thereby to obey all administrative statutes and regulations to the letter of the law. These regulations include, of course, the requirement that all subjects apply and pay for licenses to use the State and federal highways, even though the highways belong to the People. The land on which they were built, and the materials and labor expended in their construction, were all paid for with taxes obtained from the People. Provided that you are not engaged in any "privileged" or regulated activity, you are free to travel anywhere you wish within the 50 States. Those States are real parties to the Constitution and are therefore bound by all its terms.

Another one of your Common Law rights is the right to own property free and clear of any liens. ("Unalienable" rights are rights against which no lien can be established precisely because they are un-lien-able.) You enjoy the right to own your vehicle outright, without any lawful requirement that you "register" it with the State Department of Motor Vehicles. The State governments violated your fundamental rights when they concealed the legal "interest" which they obtained in your vehicle, by making it appear as if you were required to register the vehicle when you purchased it, as a condition of purchase. This is fraud. If you don't believe me, then try to obtain the manufacturer's statement of origin (MSO) the next time you buy a new car or truck. The implications and ramifications of driving around without a license, and/or without registration, are far beyond the scope of this book. Suffice it to say that effective methods have already been developed to deal with law enforcement officers and courts, if and when you are pulled over and cited for traveling without a license or tags. Richard McDonald is second to none when it comes to preparing a successful defense to the civil charges that might result. A Sovereign is someone who enjoys fundamental, Common Law rights, and owning property free and clear is one of those fundamental rights.

If you have a DOS-compatible personal computer and a 2400-baud modem, Richard McDonald can provide you with instructions for accessing his electronic bulletin board system (BBS). There is a mountain of information, and some of his computer files were rather large when he began his BBS. Users were complaining of long transmission times to "download" text files over phone lines from his BBS to their own personal computers. So, McDonald used a fancy text "compression" program on all the text files available on his BBS. As a consequence, BBS users must first download a DOS program which "decompresses" the compressed files. Once this program is running on your personal computer, you are then free to download all other text files and to decompress them at your end. For example, the compressed file "14AMREC.ZIP" contains the documentation which proves that the so-called 14th Amendment was never ratified. If you have any problems or questions, Richard McDonald is a very patient and generous man. And please tell him where you read about him and his computer bulletin board (voice: 818-703-5037, BBS: 818-888-9882).

As you peruse through McDonald's numerous court briefs and other documents, you will encounter many gems to be remembered and shared with your family, friends and associates. His work has confirmed an attribute of sovereignty that is of paramount importance. Sovereignty is never diminished in delegation. Thus, as sovereign individuals, we do not diminish our sovereignty in any way by delegating our powers to State governments, to perform services which are difficult, if not impossible for us to perform as individuals. Similarly, States do not diminish their sovereignty by delegating powers to the federal government, via the Constitution. As McDonald puts it, powers delegated do not equate to powers surrendered:

> 17. Under the Constitutions, "... we the People" did not surrender our individual sovereignty to either the State or Federal Government. Powers "delegated" do not equate to powers surrendered. This is a Republic, not a democracy, and the majority cannot impose its will upon the minority because the "LAW" is already set forth. Any individual can do anything he or she wishes to do so long as it does not damage, injure, or impair the same Right of another individual. This is where the concept of a corpus delicti comes from to prove a "crime" or a civil damage.
>
> [see MEMOLAW.ZIP on Richard McDonald's electronic BBS]
> [see also FMEMOLAW.ZIP and Appendix Y, emphasis added]

Indeed, to be a Citizen of the United States*** of America is to be one of the Sovereign People, "a constituent member of the sovereignty, synonymous with the people" [see 19 How. 404]. According to the 1870 edition of Bouvier's Law Dictionary, the People are the fountain of sovereignty. It is extremely revealing that there is no definition of "United States" as such in this dictionary. However, there is an important discussion of the "United States of America", where the delegation of sovereignty clearly originates in the People and nowhere else:

> The great men who formed it did not undertake to solve a question that in its own nature is insoluble. Between equals it made neither superior, but trusted to the mutual forbearance of both parties. A larger confidence was placed in an enlightened public opinion as the final umpire. The

people parcelled out the rights of sovereignty between the states and the United States**, and they have a natural right to determine what was given to one party and what to the other. ... It is a maxim consecrated in public law as well as common sense and the necessity of the case, that a sovereign is answerable for his acts only to his God and to his own conscience.

[Bouvier's Law Dictionary, 14th Edition, 1870]
[defining "United States of America"]
[emphasis added]

We don't need to reach far back into another century to find proof that the People are sovereign. In a Department of Justice manual revised in the 1990 (Document No. M-230), the meaning of American Citizenship was described with these eloquent and moving words by the Commissioner of Immigration and Naturalization: "You are no longer a subject of a government!"

The Meaning of American Citizenship
Commissioner of Immigration and Naturalization

Today you have become a citizen of the United States of America. You are no longer an Englishman, a Frenchman, an Italian, a Pole. Neither are you a hyphenated-American -- a Polish-American, an Italian-American. **You are no longer a subject of a government.** Henceforth, you are an integral part of this Government -- a free man -- a Citizen of the United States of America.

This citizenship, which has been solemnly conferred on you, is a thing of the spirit -- not of the flesh. When you took the oath of allegiance to the Constitution of the United States, you claimed for yourself the God-given unalienable rights which that sacred document sets forth as the natural right of all men.

You have made sacrifices to reach this desired goal. We, your fellow citizens, realize this, and the warmth of our welcome to you is increased proportionately. However, we would tincture it with friendly caution.

As you have learned during these years of preparation, this great honor carries with it the duty to work for and make secure this longed-for and eagerly-sought status. Government under our Constitution makes American citizenship the highest privilege and at the same time the greatest responsibility of any citizenship in the world.

The important rights that are now yours and the duties and responsibilities attendant thereon are set forth elsewhere in this manual. It is hoped that they will serve as a constant reminder that only by continuing to study and learn about your new country, its ideals, achievements, and goals, and by everlastingly working at your citizenship can you enjoy its fruits and assure their preservation for generations to follow.

May you find in this Nation the fulfillment of your dreams of peace and security, and may America, in turn,

never find you wanting in your new and proud role of Citizen of the United States.

[Basic Guide to Naturalization and Citizenship]
[Immigration and Naturalization Service]
[U.S. Department of Justice]
[page 265, emphasis added]

Executed on _____

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state

Executed on January 17, 1997:

/s/ Paul Andrew Mitchell
_____
Paul Andrew, Mitchell, B.A., M.S.
Citizen of Arizona state, federal witness,
Counselor at Law, and Counsel to Defendant

EXHIBIT "A":

"The Day Our Country Was Stolen:"

"How the 14th Amendment" [sic]
"Enslaved Us All"
"Without a Shot Fired"

The Day Our Country Was Stolen:

How the 14th Amendment [sic]
Enslaved Us All
Without a Shot Fired

by

L. C. Lyon

Most Americans would agree that we, as a people, are treated by our public servants -- the judges, politicians, law enforcement and bureaucrats who are paid their salaries by our

taxes -- as if we were in complete bondage to them. When we joke about being slaves to the Government, we don't realize that we are exactly correct, joke or not. In fact, all those 99% of Americans who call themselves "U.S. citizens" are actually subjects of the corporate United States Government -- not the sovereign states of the Union. The moment you uttered your first cry on American soil, you became the chattel property of the corporation known as the United States of America which, because of the federal debt, handed title (Birth Certificate) to your body and soul to the Federal Reserve Bank, to be held in the archives of the Department of Health and Human Services.

As incredible as this sounds, it is sadly true. The next question is: How did I automatically become subject to a government, when I'm supposedly a free American? How did this all come about, that I should be made to register myself, my family, and all that I own; be made to obey oppressive laws; and forfeit almost half of my earnings upon threat of jail? Only those who are "subject" to a government can be made to do these things. Free American Inhabitants are subject to no one but God, and all the laws and responsibilities which that Divine allegiance entails.

Which "United States" Do You Live In?

The answer to the above questions goes back to the American Civil War. The war that was supposedly fought to free the slaves from bondage actually did just the opposite -- for all Americans then and in the future. By enacting the 14th Amendment (which technically is an Article, not a true amendment, but that's a topic for another discussion), a whole nation of newly freed slaves and free-born white American Inhabitants became "citizens of the United States", i.e. of a federal government corporation, at the stroke of a pen and without a shot being fired.

Because we Americans are a different breed and demand the right to personal freedom, those who had planned decades ago to enslave us (even if it took generations to do so) knew that, as long as we were armed and willing to fight to maintain our freedom, the only way to accomplish this enslavement was by deception.

To proceed further, we must understand that there are two "United States". There is the "united States" (note the small "u" in "united") which describes the ideological and geographical position of the sovereign states of America. An individual was the voluntary inhabitant of the state in which he resided. If he did not like the laws or practices of that state, he could simply move to another state. Each state was sovereign to itself, and could not be forced to accept the laws and practices of any other state.

The "United States of America", however, is the name of the corporate entity (note the capital "U" in "United") that exists to carry out the functions delegated to it by the States for the protection of the Union. This corporate entity's jurisdiction is supposed to be (according to the Constitution) confined to the District of Columbia, the federal territories and the federal enclaves. Enclaves are areas within a State's boundaries which

are ceded to the Federal Government by the State Legislature.

Anyone can come under the direct jurisdiction of the corporate United States in three ways: (1) by living in one of its territories (Guam, Puerto Rico, the Virgin Islands, etc.), (2) by living in the District of Columbia, or (3) simply by choice. Back when America still had vast territories not-yet-become states and several thousands of people lived in these territories, these people had no rights protected by state sovereignty. They lived under federal jurisdiction, which was the reason why people living in territories were so anxious to achieve statehood. The President could order federal troops into any territory and enact any edicts he wanted. Once a territory became a state, it had sovereignty and, from that point on, the state's rights prevailed.

So, if you don't live in a territory or enclave, and you don't live in the District of Columbia, then the only way you could have fallen under the jurisdiction of the United States Government is by choice. But neither I, nor anyone I know, voluntarily or knowingly surrendered their personal sovereignty to the Government, which means that it (our sovereignty) was taken from us by deception.

This deception, which took place in the year 1868, is what this article will explain -- how our ancestors were tricked and coerced into giving up their rights (and ours!) to the jurisdiction of the Federal Government.

Civil War Sets the Stage for Takeover

The Constitution for the United States of America specifies in the opening paragraph that the Constitution was written for the newly formed corporation, not for us, the People living in America. Our rights come from God and are inalienable. They do not come from a piece of paper. And, because the Federal Government exists only on paper -- a man-created entity -- it can also be dismantled anytime We the People decide it has become a threat to our inalienable God-given rights of sovereignty.

The Constitution is the contract between those who administer the Government's affairs and the People of the united States. In essence, it states that the People will give the Government certain powers necessary to administer the defense of the States, and control the commerce into the States from foreign countries. In exchange, the State governments (not the individual people -- direct taxation by the Federal Government is unconstitutional) would provide the Federal Government the money it needs to operate. The Federal Government had limited powers; in fact, the Bill of Rights was hotly debated at the time of its passage because there were several people who wisely cautioned that the Bill of Rights would eventually be construed as rights endowed by the Constitution, not protected by it (which is exactly what has happened).

How often do you hear patriots mistakenly vow to defend "their Constitutional rights"? This thinking reflects the decades of public school brainwashing to which we have all been subjected. We need to correct each other and understand that our

rights are God-given, not constitutional.

So, how does the Civil War enter into this present-day power struggle between the Federal Government and Us the People? Slavery was not the true underlying reason for the war. It was an emotional, social issue that was used as an excuse to incite people to go to war, people who did not realize that foreign agencies were responsible for that conflict. International bankers, seeing the slavery issue as an opportunity not only to divide the country, but make millions of dollars as well, fanned the flames of debate until, under cover of the most bloody war in the history of the world, they were to accomplish that very objective -- the complete takeover of America. They almost succeeded years sooner, except for the intervention of one man -- President Abraham Lincoln.

"Honest Abe" Knew the Truth

President Lincoln was against slavery, but he understood that it was wrong to force the southern States to give up slavery -- to force Federal jurisdiction over the issue of States' Rights. Four of the southern States were already considering the abolition of slavery, but they couldn't just abandon it overnight. It would take time. After all, their whole economy was built upon slavery; a sudden disruption would bankrupt the South. Lincoln understood this. But, it wasn't until Lincoln got into office that he began to see the whole picture. He learned that the war was begun by the International Bankers as a means of dividing the country in two, forcing both sides to borrow heavily from the Bankers to pay war debts. Then, when failing to repay those loans, the divided America would be forced into bankruptcy. The Rothschilds and other bankers could then simply foreclose on the corporations known as the United States of America and the Confederate States of America. President Lincoln knew he had to keep the nation together at all costs -- including war.

Saved by the National Banks

Near the end of the war, the South was on its knees and the U.S. Government was nearly bankrupt. Seeing their opportunity, the Bankers offered to loan the U.S. Government enough to see it through. Lincoln said no. He would find another way.

What he did then was to ask Congress for permission to print paper money. Even though he knew it was unconstitutional (only gold and silver are lawful U.S. money), it was the only way he knew to buy provisions for the Army -- but only if the U.S. banks would accept it. They did. When Lincoln gave his word that the Government would redeem those notes for gold and silver at a later time, they believed him and honored the notes. By doing this, the planned takeover by the Bankers was averted -- at that time.

The Bankers' Revenge -- Assassination

Because he had given his word to the nation's bankers; because he had promised the South that, upon surrender, the Government would help them rebuild; and because he had promised

the Southerners there would be no recriminations or punishments if they again swore loyalty to the Union, Lincoln knew he had to get re-elected, though he was tired, tormented by migraine headaches, and worried about his suffering family life. He had to make sure those promises were kept.

Lincoln's complete thwarting of the International Bankers' plans doomed him to assassination at their hands. Papers found in Booth's locker show communications with an agent hired by the Rothschild family.

Weeks before he was killed, Lincoln knew he would die in office. His spies were reporting plots to kill him; it was only a matter of who got to him first. So, he met regularly with his Vice President, Andrew Johnson, and educated him as quickly as he could so that he could follow through on Lincoln's promises. Johnson listened carefully and understood what was expected of him, and why. Then, after Lincoln's murder, he did exactly as he was supposed to do.

In school, when we were taught this part of American history, we were told that Andrew Johnson was uneducated and ignorant, and fumbled continuously in office, which was supposedly why he was impeached. Johnson was of humble origin, but he was an honest, self-educated man who stood firmly for what he saw clearly were the best interests of his country. This is what got him impeached.

Impeachment!

At this time, the only men in Congress were those representing the northern States. After Fort Sumter, all the southern States had seceded. After Lincoln's death, Congress began passing laws to punish the South, in contradiction to Lincoln's promise. Johnson began vetoing them, sometimes three and four times, until Congress began passing them over his veto. One particular bill that he vetoed, the Civil Rights Bill, was intended to make all former slaves automatic citizens of the Federal Government, and under its direct jurisdiction (and protection). This seemed like a compassionate and generous gesture to the newly freed slaves but, as Johnson pointed out, it would have serious consequences for the Negroes. In his veto message in March of 1866, Johnson pointed out the pitfalls of this bill:

> He [the Negro] must, of necessity, from his previous unfortunate condition of servitude, be less informed as to the nature and character of our institutions than he who, coming from abroad, has to some extent at least, familiarized himself with the principles of a government to which he voluntarily entrusts "life, liberty, and the pursuit of happiness".
>
> The 1st Section of the bill also contains an enumeration of the rights to be enjoyed by these classes so made citizens "in every state and territory in the United States". These rights are "to make and enforce contracts; to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property"; and to have "full and equal benefit of all laws

and proceedings for the security of person and property as is enjoyed by white citizens". So too, they are made subject to the same punishment, pains and penalties, in common with white citizens ....

[emphasis added]

Johnson could clearly see that to immediately place a string of governmental "rights and benefits" upon a totally naive and uneducated people as the Negroes, would also make them easy prey for every carpetbagger who would trick them into contracts, in which they would have no knowledge of the legal ramifications. This bill would, in effect, make the former slaves as slaves again to different masters: unscrupulous businessmen, attorneys and judges.

Johnson saw that this bill was also a means of foisting unconstitutional jurisdiction of the Federal Government in every state:

Thus a perfect equality of the white and colored races is attempted to be fixed by federal law in every state of the Union over the vast field of state jurisdiction covered by these enumerated rights.

If Congress can declare by law who shall hold lands, who shall testify, who shall have capacity to make a contract in a state, then Congress can by law also declare who, without regard to color or race, shall have the right to sit as a juror or as a judge, to hold any office, and finally, to vote "in every state and territory of the United States".

The legislation thus proposed invades the judicial power of the state. It says to every state court or judge: if you decide that this act is unconstitutional; if you refuse, under the prohibition of a state law, to allow a Negro to testify; if you hold that over such a subject matter the state law is paramount ... your error of judgment, however conscientious, shall abject you to fine and imprisonment.

The Legislative Department of the government of the United States thus takes from the Judicial Department of the states the sacred and exclusive duty of judicial decision and converts the state judge into a mere ministerial officer, bound to decide according to the will of Congress.

[emphasis added]

Johnson then continued with an additional warning as to the virtually unlimited power given to appointed agents:

The Section of the bill provides that officers and agents of the Freedman's Bureau shall be empowered to make arrests and also that other officers may be specially commissioned for that purpose by the President of the United States. It also authorizes circuit courts of the United States and the superior courts of the territories to

appoint, without limitation, commissioners, who are to be charged with the performance of quasi-judicial duties.

These numerous agents are made to constitute a sort of police, in addition to the military, and are authorized to summon a posse comitatus, and even to call to their aid such portion of the land and naval forces of the United States or of the militia ....

This extraordinary power is to be conferred upon agents irresponsible to the government and to the people, to whose number the discretion of the commissioners is the only limit and in whose hands such authority might be made a terrible engine of wrong, oppression and fraud.

The 7th Section provides that a fee ... shall be paid to each commissioner in every case brought before him, and a fee ... to his deputy or deputies for each person he or they may arrest and take before any such commissioner ....

All those fees are to be "paid out of the Treasury of the United States" whether there is a conviction or not; but in the case of conviction they are to be recoverable from the defendant. It seems to me that under the influence of such temptations, bad men might convert any law, however beneficent, into an instrument of persecution and fraud.

To me, the details of the bill seem fraught with evil. It is another step, or rather stride, toward centralization and the concentration of all legislative powers in the national government.

[emphasis added]

It is plain to see here that President Johnson saw far into the future as to the potential for legal and political abuse of such arbitrary powers -- powers that had never before been placed into the hands of a bureaucracy that had not been subjected to referendum by the people or constitutional question by any federal court. This bill (which was passed over Johnson's veto) did, in fact, set the precedent for hundreds of federal, state and local bureaucracies that have since choked the lifeblood of millions of Americans.

Also, this bill blatantly usurped all States Rights and opened a very wide door for the further usurpation of these rights, using other social agendas.

The reason Andrew Johnson was impeached was because he fought so hard against this bill and the subsequent 14th Amendment. His enemies purposely did not mention to the press (nor to the public) the legal and political ramifications of this bill which Johnson had so succinctly pointed out; but instead they broadcasted the notion that he was reneging on Lincoln's promises to "heal the wounds" of the nation by fighting full rights for the Negro -- thus making it an emotional social issue.

In fact, Johnson was keeping Lincoln's promises by trying to protect the rights of the newly freed slaves, as well as the rights of those states which knew their own former slaves better than anyone, and knew the Negroes were not yet ready for the

responsibilities of citizenship. As Johnson had predicted, after passage of the bill, so many of the Negroes had indeed been robbed of goods and property by white charlatans and/or thrown into jails for breaking commercial laws they did not understand that, when the Negroes did come to full awareness of the massive duplicity perpetrated by these scoundrels, a racial hatred and mistrust of all whites became a nationwide phenomenon that has never been erased to this day.

The Final Axe Falls

After the bill was passed over Johnson's veto, and there was no general hue and cry from the public, Congress then proceeded with the next step -- the 14th Amendment. In order to understand the ramifications of this heinous act of Congress, it must be analyzed section-by-section:

> ARTICLE XIV. Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
>
> [emphasis added]

In the very first line, the amendment states that all persons born (all babies from this point on) or naturalized (the newly freed slaves who were then just inhabitants of America) are now citizens of the United States (the Federal Government) and of the State (the State Government) where they lived. From the Declaration of Independence on, all people in America who lived here were Americans, residing in a particular geographical state, and free to move from state to state, or even to another country. The Federal Government, according to the Constitution, is a corporate fiction that does the bidding of the body of collective states called Congress. At this time, the state governments had similar limited jurisdiction over their inhabitants, as did the federal government. The state government's primary function was to act as a collective voice of all its inhabitants to convey their wishes to Congress. Congress controlled the federal government.

The rule of Common Law, which was the law of the land at that time, was carried out exclusively by the County Sheriff -- the Common Law concept of Posse Comitatus. Neither the State nor the Federal Government had any jurisdiction in the County, where Home Rule was the law. Only by permission or invitation by the Sheriff could either of the other two governments step foot in his County. The Civil Rights Bill, in one bold act, forced Federal Government jurisdiction into the sanctity of State rule. But Posse Comitatus still reigned in each state, and the conspirators found the way to usurp jurisdiction here through the 14th Amendment.

Citizens, Subjects = Slaves

In order for any government to grab power and maintain it, it must have "subjects" or "citizens". According to Black's Law Dictionary (Sixth Edition), "Citizens are members of a political community who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as collective rights. (Herriot v. City of Seattle, 81 Wash.2d. 48, 500 P.2d. 101, 109)"

So, by declaration of the 14th Amendment, all persons born from that point forward, and all naturalized people, had just become citizens (i.e. subjects) of the United States Government, obviously without their knowledge (babies) or understanding (the Negroes). The Federal Government had just reached past the jurisdictional boundaries of the state and county lines and claimed all its babies and all Negroes.

In Section 2, it then states that only males 21 years of age who are citizens of the United States may be allowed to vote in Federal and State elections. That means that only those men who willingly claimed U.S. citizenship on voter's registration cards (though they didn't realize the implications) were also brought in as subjects of the Federal Government. (The Federal Government's power and control are growing fast!) However, it stipulated that those who had participated in rebellion (the South) were excluded.

The Back Door

At this point, any intelligent person can figure out that the Conspirators who were using this Amendment to claim all Americans as its citizens -- by deception -- were obviously performing an illegal and unconstitutional act. The conspirators in Congress (and every Congressman knew what was being perpetrated, and either promoted it or simply pretended not to notice) established a "loophole" for themselves and to cover themselves in case people began to catch on. This loophole was 15 Statutes at Large, Chapter 249 (Section 1), enacted July 27, 1868, one day before the 14th Amendment was declared "ratified". You will not see this statute published anywhere except in very old books. The Conspirators do not want their "citizens" to know it exists, and it has never been repealed. The text follows:

> CHAP. CCXLIX. -- An Act concerning the Rights of American Citizens in foreign States
>
> Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore,

> Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government.

On the surface, this seems to guarantee that "foreigners" who live in the borders of America cannot be forced to claim citizenship. But, what this also says is that anyone who wishes to expatriate (i.e. renounce their U.S. citizenship) may do so, by inherent right, and no one can deny him this right.

The Conspirators knew that, the "letter of the law" having been satisfied with this exemption from compelled performance (having U.S. citizenship thrust upon us), they could then hide the exemption from general view, start promoting the "benefits" of U.S. citizenship in the media (and later, in public schools) and begin setting up all of us for manipulation to obey millions of codes, statutes, and laws; exacting fines for breaking these laws; and extracting license fees and taxes upon penalty of seizure or jail.

Free American Inhabitants are not subject to the Federal Government by virtue of their not claiming U.S. citizenship. Those of us who have renounced our U.S. citizenship and declared our status as American Inhabitants, using 15 Statutes at Large as the legal foundation for this Declaration of Status, are the only ones living in the united States of America. The rest of America (U.S. citizens -- about 99%) are living in a 4th dimension, i.e. in a fictitious corporation called the United States of America. As far as America is concerned (except that 1%), there's nobody home!

Slavery by Election

We can see that, in the 14th Amendment, those Southerners who had participated in the Civil War were excluded from this "benefit" (U.S. Citizenship) on purpose -- to punish them so severely with sanctions, punishing fines and terrorism from the newly formed Freeman's Bureau, that a few years later, the Southerners would be grateful for any consideration the Federal Government would extend to them. When the opportunity was ripe, such a consideration was enacted -- the 15th Amendment. It reads (in part):

> Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

By this gracious gesture, Congress extended full forgiveness to the South, and restored their right to vote (at that time, considered to be the most sacred right of an American). At the next national election after the enactment of this amendment, there was the largest turnout of voters this nation had ever seen. The South wanted desperately to be restored to the Union

and heal their wounds. When they heard that, in order to vote, they had to swear allegiance to the United States of America and thus become a "citizen of the United States" (as required by the 14th Amendment), they did so willingly and without a clue as to what they had just done to themselves and to their posterity.

With the stroke of a pen, the 14th Amendment, and the subsequent 15th Amendment, had just enslaved an entire nation without a shot being fired.

The "Forgotten" Clause

Obviously, this treacherous act by Congress was enough to have all of them hanged as traitors; but, there was one more act of treachery that has been overlooked by most people. Section 4 of the 14th Amendment reads:

> The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.
>
> [emphasis added]

At that time, a hue and cry was raised concerning Lincoln's promises to "forgive" the South's debts as part of Reconstruction, with good reason. But mainly overlooked was the first part of Section 4, which says that the debts incurred by the U.S. government were not to be questioned, that the enforcers whom the Government hired to quell insurrection (today, the CIA, FBI, BATF, DEA, U.S. Marshals, etc.) would be paid by the Government. And where was the Government's money to come from? Answer: Its newly acquired subjects -- U.S. citizens. The States had just signed into constitutional amendment the permission for the Federal Government to hire thugs and thieves to control us, to pay them with our own money, and that no question could be brought to court about the constitutionality of these actions. This is why any effort to bring a suit against the Government about the Federal debt will never be entertained by the Supreme Court!

A Dangerous Game

In Europe, Africa and other places in the world, a despot simply took over a country by waging war. Here in America, however, as long as Americans were armed and prepared for hostile armed takeover, the Conspirators knew that a different technique -- a grand deception by manipulation of the laws, the courts, the schools, the media -- must be employed to obtain the same results. They waged war on us long ago, but we've been too naive to see it. There are many who are waking up now, but they don't see the whole picture. They think that if they reverse a certain portion of Government abuse, we can take our country back. Tax protestors (as IRS calls them) have perfectly correct reasons to

point out that they are not required to file -- but they forget they are still U.S. citizens (i.e. subjects). Home schoolers fight bravely for their right to protect their children against Government control -- but they forget they are still U.S. citizens. Legal eagles have found many statutory "loopholes" to win a few battles in court -- but they forget they are still U.S. citizens.

Playing the "patriot game" without fully understanding the constitutional hold the Federal, State and local governments have over them is playing a dangerous game. They may win a few skirmishes in their battles with Government (the Government allows these "wins" to encourage us to continue wasting our energies in useless effort), but they will never win the war, and will only bring the wrath of Government down upon the head of yet another one of its subjects.

For now, at least, the Government is respecting the status of American Inhabitants. We (your publisher L. C. Lyon and writer George Sibley) have not had any legal hassles from any Government entity, because we are no longer U.S. citizens. We are the same as George Washington, Thomas Jefferson, Benjamin Franklin and all the other patriots were in their time -- free American Inhabitants. Any U.S. citizen can give up this enslaving status at any time, but it must be done properly.

If everyone in America were to take back their rights as free Americans again, through the revocation process, the Government would have no more subjects, and no more power!

IT'S TIME TO TAKE OUR COUNTRY BACK!

[Minor grammatical and spelling edits were done to this essay by John E. Trumane. These edits were done without permission of the author, because Mr. Trumane did not have the author's mailing address at the time the edits were done.]

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States," that I am at least 18 years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

VERIFIED STATEMENT IN SUPPORT OF CHALLENGE
TO FEDERAL JURY SELECTION POLICY
AND ITS FEDERAL STATUTE:
28 U.S.C. 1746(1), 1861, 1865; Rules 201(d), 301, 302,

Federal Rules of Evidence; Full Faith and Credit Clause

by placing one true and correct copy of said document(s) in first

class U.S. Mail, with postage prepaid and properly addressed to

the following:

James E. Hedgspeth, Jr.
Etowah County Offices
c/o 800 Forrest Avenue
Gadsden [zip code exempt]
ALABAMA

Clerk of Court
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden [zip code exempt]
ALABAMA

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Clerk of Court
Alabama Court of Criminal Appeals
c/o P.O. Box 301555
Montgomery [zip code exempt]
ALABAMA

Attorney General
Department of Justice
10th and Constitution, N.W.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Clerk of Court
District Court of the United States
c/o 1729 Fifth Avenue North
Birmingham [zip code exempt]
ALABAMA

Chief Judge
11th Circuit Court of Appeals
c/o 56 Forsyth Street, N.W.
Atlanta [zip code exempt]
GEORGIA

William H. Rehnquist, C.J.
Supreme Court of the United States
1 First Street, N.E.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Executed on _____

/s/ Mike Kamp

William Michael, Kemp, Sui Juris
Citizen of Alabama state [See USPS Publication #221.]

# # #

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Alabama v. Kemp

---

c/o 2509 N. Campbell, #1776
Tucson [zip code exempt]
ARIZONA STATE

January 22, 1997

Disclosure Officer
Administrative Office of the U.S. Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C.

Subject: Hon. James H. Hancock

Dear Disclosure Officer:

Please provide Us, as soon as possible, with a certified copy of the credentials of one James H. Hancock, employed as a federal district judge in the United States District Court ("USDC") for the Northern District of Alabama, Middle Division.

Judge Hancock alleges that he is currently an Article III judge [sic], but he is also paying federal income taxes on his judicial compensation, in violation of Article III, Section 1, in the U.S. Constitution, which has never been repealed or amended. In a recent ORDER issued from the wrong court, Judge Hancock stated that he would be positively thrilled to learn from some authoritative source that he is exempt from federal taxes. Evidently, Judge Hancock does not consider the U.S. Constitution to be an "authoritative source"; I do hope I have not drawn the wrong inference from his ORDER.

We refer you (and Judge Hancock) to the decision of the Supreme Court of the United States in Evans v. Gore, 253 U.S. 245 (1920), which held that judicial immunity from diminution of their compensation must be sustained, notwithstanding the so-called 16th amendment [sic]. Our research informs us that this decision has never been formally overturned, notwithstanding allegations to the contrary which have been published in the UCLA Law Review.

During calendar 1996, I did witness a copy of stationery from the "Article III Judges Division" [sic] of your offices, which had been transmitted through the United States Mail to Me from Carol S. Sefren, Chief, Judges Compensation and Benefits Branch, Article III Judges Division (see attached response).

Can it be that your office continues to misinform federal judges that they are authorized under Article III, even though those very same judges are paying federal income taxes on their judicial compensation, in violation of Article III, Section 1, and in violation of the standing decision in Evans v. Gore, and even though all federal district judges currently preside over the USDC, and not over the District Court of the United States ("DCUS")? See Balzac v. Porto Rico, 258 U.S. 298, 312 (1921).

If this is the case, permit Us respectfully to request that you cease and desist this practice at once, because it is misleading, not only for all the judges on your payroll, but also for the public at large whom those judges were appointed to serve, with integrity and without undue influence. See also Lord v. Kelley, 240 F.Supp. 167, 169 (1965), to appreciate how far our judiciary has deteriorated since the decision in Evans.

Please respond as quickly as possible. Until We receive your

certified response, important litigation must be put on hold.

Thank you very much for your consideration.

Sincerely yours,

/s/ Paul Andrew Mitchell

Paul Andrew, Mitchell, B.A., M.S.
Citizen of Arizona state and federal witness

email: supremelawfirm@altavista.net

website: http://supremelaw.com

copy: James H. Hancock, Senior United States District Judge
William H. Rehnquist, C.J., U.S. Supreme Court
parties listed in PROOF OF SERVICE, State v. Kemp
litigation files

# # #

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William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
non-domestic zip code exempt

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	)	Case No. #CV-97-H-0022-M
	)	
Plaintiff [sic]	)	16th Cir. Case #CC-95-1083-DWS
	)	
v.	)	NOTICE AND DEMAND FOR
	)	MANDATORY JUDICIAL NOTICE:
WILLIAM MICHAEL KEMP [sic],	)	Rule 201(d), Federal Rules
	)	of Evidence; Full Faith and
Defendant [sic]	)	Credit Clause; P.L. 91-375,
_____	)	Section 403

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled action (hereinafter "Defendant"), to provide formal Notice to all interested parties of His Demand, made hereby pursuant to Rule 201(d) of the Federal Rules of Evidence, for mandatory judicial notice of the attached documentation and legal authorities concerning the United States Postal Service ("USPS") and the use of Zone Improvement Program ("ZIP") codes on first class mail. This honorable Court is respectfully requested to take formal judicial notice of P.L. 91-375, Section 403. The attached documentation is incorporated by reference as if set forth fully.

S A M P L E L E T T E R

To Whom It May Concern:

Please kindly correct your records to show that I am located at:

NON-DOMESTIC
c/o _____ Street
City/Town, State (spell out full name)
zip code exempt (DMM 122.32)

Since the use of ZIP codes is voluntary (see Domestic Mail Service Regulations, Section 122.32), the U.S. Postal Service cannot discriminate against the non-use of ZIP codes, pursuant to the Postal Reorganization Act, Section 403 (Public Law 91-375).

The federal government attempts to assert jurisdiction by sending letters with ZIP codes, when jurisdiction would otherwise be lacking. The receipt and "acceptance" of mail with ZIP codes is one of the requirements for the Internal Revenue Service, in particular, to have jurisdiction to send notices. In fact, the IRS has adopted ZIP code areas as "Internal Revenue Districts". See the Federal Register, Volume 51, Number 53, for Wednesday, March 19, 1986.

The federal government cannot bill a _____ State Citizen because such a Citizen is not within the purview of the District of Columbia, its territories, possessions or enclaves. As a group, these areas are now uniquely and collectively identified as "the federal zone", as explained in the book entitled The Federal Zone: Cracking the Code of Internal Revenue, San Rafael, Account for Better Citizenship, 1992.

Your immediate cooperation in this matter will be most appreciated.

Signed with explicit reservation of all my rights
and without prejudice to any of my rights,

/s/ John Q. Doe
_____

John Q. Doe, _____ state Citizen
Nonresident Alien with respect to The Federal Zone
(D.C., its territories, possessions and enclaves)

ZIP Code Use Invokes Federal Jurisdiction

Vol. I, No. 6

Use of the ZIP Code is voluntary. See Domestic Mail Services Regulations, Section 122.32. You should also know that the Postal service cannot discriminate against the non-use of the ZIP Code. See "Postal Reorganization Act", Section 403, (Public Law 91-375). The federal government utilizes the ZIP code to prove that you reside in a "federal district of the District of Columbia". This is why the IRS and other government agencies (state and federal) require a ZIP Code when they assert

jurisdiction by sending you a letter. They claim that this speeds the mail, but this is a sly and subtle TRICK. It is also prima facie evidence that you are a subject of Congress and a "citizen of the District of Columbia" who is "resident" in one of the several States.

The receipt of mail with a ZIP code is one of the requirements for the IRS to have jurisdiction to send you notices. The government cannot bill a Citizen of California, because he is not within the purview of the MUNICIPAL LAWS of the District of Columbia. In fact, the Internal Revenue Service has adopted the ZIP code areas as Internal Revenue Districts. See the Federal Register, Volume 51, Number 53 , Wednesday, March 19, 1986.

You must remember that the Postal Service is a private corporation, a quasi-governmental agency. It is no longer a full government agency. It is like the Federal Reserve System, the Internal Revenue Service, and the United States Marshall Service. They are all outside the restrictions of the Federal Constitution, as private corporations. They are all powerful in their respective areas of responsibility to enforce collection for the federal debt. So, if you are using a ZIP code, you are in effect saying openly and notoriously that you do not live in the State of California, but, instead are a resident in the california area of the District of Columbia (a federal district). There are some so-called Patriot groups that I consider to be patriots for money. They advocate the use of Title 42 suits (which are for federal citizens only), send mail to you with a ZIP Code, and ask you to do things that place you within the municipal jurisdiction of the District of Columbia.

Remember these individuals may be agents of the government or, even worse, are advocating a one-world government by the use of the Social Security number and the ZIP code.

So you must be aware of the movement towards a one-world government through annihilation or elimination of State Citizens by use of the so-called 14th Amendment and its related laws.

This movement can be halted by the efforts of everyone to return to the status of Primary State Citizens. By becoming a State Citizen and not a citizen of the United States, you can get the federal government off your back and out of your billfold.

Speaking for myself, I want the Original Constitution for the United States of America put back in force, as applied against the federal government, and the States restored to their original status as Republics.

So, all you have to do is to study and determine your status, whether you are a "slave" and a second-class citizen (commonly referred to as a "federal citizen"), or a Sovereign State Citizen (e.g. of California).

You must decide who and what you are!!!!!

c/o General Delivery
San Rafael, California
Postal Zone 94901/tdc

August 16, 1992

Eileen Casady
Mill Valley Post Office
751 E. Blithedale
Mill Valley, California state
Postal Zone 94941-9998/tdc

Dear Eileen:

Thank you for your interest in our research. Yesterday, you may recall that you asked me about my use of the letters "/tdc" after ZIP codes. I am sorry that the Post Office was too busy for us to discuss it on the spot. I want you to know that I have noticed the cheerful efficiency with which you serve the public at your counter, and do so with remarkable consistency. So, it is with great pleasure that I am now able to return the favor of your kindness and consideration.

The problem which I am about to describe to you has its roots in old Europe, where many generations of banking families made a lucrative discovery centuries ago. They found that banks could profit more by loaning huge sums to governments, than by making lots of small loans to individuals like you and me. Governments, of course, are in a unique position to borrow huge sums, and they have the police power to extract repayment from their people.

In 1913, our Congress got in bed with these same European banking families and passed legislation which created a private credit monopoly known as the Federal Reserve System. This system is no more federal than Federal Express. Moreover, there is no "Reserve". These banks are privileged to loan money which they don't have, through a special privilege known as "fractional reserve banking". What really happened was that Congress extended to this monopoly the privilege of counterfeiting money.

Congress benefits from this monopoly by borrowing huge sums from it every year. You see, for decades now, Congress has been spending much more money than it collects from taxation. It "balances" the budget every year by putting ink on pieces of paper and calling them bonds. These bonds are usually put up for sale in the open bond market. But the federal deficits have become so huge, there are not enough working people like you and me to buy up all of these bonds every year. So, Congress walks across the street to the Federal Reserve, which buys them from Congress by printing ink on pieces of paper and calling them "Federal Reserve Notes". Take a look in your wallet now, and you will see an example of a Federal Reserve Note (or "FRN"). The New York banking establishment refers to these bills as Federal Reserve Accounting Unit Devices (F-R-A-U-D).

It is bad enough that this private credit monopoly has been given the privilege to "counterfeit" money. (They call it

"credit creation via bookkeeping entries".) What makes the whole scam so intolerable is that the American people get stuck with the interest payments. Congress was forced, in effect, to "lien" on the land and labor of all Americans as collateral for these huge bank loans. Enter the Internal Revenue Service. The IRS is really just a collection agency for the Federal Reserve banks. The FED pumps money and credit into the economy, and the IRS sucks it out of the economy, like two pumps, working in tandem. If we had only one pump injecting money into the economy, without a balancing pump to remove it from the economy, the value of our dollar would diminish rapidly as inflation climbed like a sky rocket into the stratosphere. This happened in Germany just prior to World War II, so the bankers learned an important lesson from that grotesque experiment in hyper-inflation.

What does all this have to do with ZIP codes, you ask? Well, under American Law never repealed, Congress does not have authority to obtain controlling interest in all Americans, such that it can compel our specific performance to discharge any third-party debt or obligation. Imagine walking into a department store to buy a new toaster, and having the store clerk send the bill to Willie Brown. In this example, you are Congress; the store is the Federal Reserve; and Willie Brown represents the American people (some of the time). Willie Brown gets stuck with a transaction to which he was never a party. In fact, he didn't even know about it!

Congress needs to deceive Americans into believing that they are all "subjects" of the "United States". If you are subject to the jurisdiction of the "United States", then you can be compelled to pay taxes which are used to discharge the interest payable on the huge principal deficit which Congress has amassed. But, here's the rub. The Supreme Court in 1945 defined the term "United States" to have three separate and distinct meanings. These meanings are:

(1) the name of our sovereign nation, occupying the position of other sovereigns in the family of nations

(2) the federal government and the limited territory over which it exercises exclusive sovereign authority

(3) the collective name for the States which are united by and under the Constitution for the United States of America

The second of these three definitions is the most interesting. It includes such areas of land as the District of Columbia, Puerto Rico, Virgin Islands, Guam, and American Samoa, but it does NOT include the 50 States of the Union, like California, and Florida, and New York. Now, if you were born in one of the 50 States of the Union, you were born outside of the area defined by the second definition of "United States" and you are, therefore, born a free Sovereign. A Sovereign is the opposite of a subject. If you were born a Sovereign, there is no way you can be "subject" to the jurisdiction of the "United States" (unless you volunteer), particularly when the "United States" in this context means only the very limited territory over which Congress exercises its exclusive authority. Congress does not exercise exclusive authority over any of the 50 States of the Union. That's the American Law which has never been repealed. Unfortunately, the Supreme Court's definition of the three "United States" was written in 1945, at the peak of the first nuclear war on this planet. People had other things on

their minds!

One of the ways in which Congress deceives all Americans into thinking they are its "subjects" is to utilize jurisdictional traps like the ZIP code. In the DMM, you will find that ZIP codes are actually optional (see DMM 122.32). If we utilize this optional "benefit" which Congress is providing for us, we are presumed to be volunteering ourselves as "subjects" of Congress. That may sound pretty stupid, at first glance, but it gets worse. Federal judges are now under so much pressure to keep the money flowing into the banks, they have developed a technique called "silent judicial notice". That's a fancy way of saying they don't have to tell you that you made yourself a subject of Congress by using ZIP codes. And the government is always fond of telling people that ignorance of the law is no excuse. But, of course, this is fraud and it's just as illegal for the government to do it as it is to counterfeit money.

Now, we finally arrive at "/tdc". You cannot be compelled to honor or perform under any contract if you were under threat, duress, or coercion when you entered the contract. It's like extortion: you aren't really "cooperating" when someone extorts your cooperation. Actually, a criminal commits a serious crime against your person to extort your cooperation for anything.

The ZIP code is like extortion, on a small but real scale. Postal clerks tell us our mail will move a lot slower if we don't use ZIP codes, and they are probably right. You would know! But we have to pay the same amount for first class, whether or not we use a ZIP code, and remember that ZIP codes are defined as optional in the DMM. So, if we use ZIP codes, our mail moves a lot faster, but the federal government is thereby entitled to treat us as subjects and force us to pay interest on their huge federal deficit. If we don't use ZIP codes, our mail moves much slower (the "duress"), we still have to pay the full postage due, but at least we avoid becoming "subjects" of Congress. Being free of Congress is our right as Americans, even when Congress is nowhere nearly as corrupt as it is now. In fact, I think it is fair to say that in the 200+ years of our brief history as a nation, this is probably the most corrupt Congress we have ever had in America.

The way around this dilemma is to use ZIP codes under threat, duress, and coercion. Specifically, we are being threatened with subjugation (slavery?) to Congress for utilizing a neat sorting scheme which expedites the delivery of everyone's mail. This threat also means that we did not enter the "ZIP code contract" voluntarily, because we had to pay the full postage regardless of whether we used the ZIP code or not. But at least we retain our right to avoid becoming a slave to the Federal Reserve banks.

The whole situation would be different if there were a different rate for mail addressed without ZIP codes, and if the

federal government would fully disclose the jurisdictional trap which it has created with ZIP codes. The federal government's failure to disclose fully all the terms and conditions attached to its contracts means that the federal government is guilty of fraud, pure and simple. And fraud nullifies, or "vitiates" everything it touches, all the way back to the beginning, even if that's your original birth certificate, or your original SS-5 Social Security application (not the SSN or SS card, but the application for an SSN). Recall now that the New York banking establishment refers to our money as Federal Reserve Accounting Unit Devices (F-R-A-U-D).

For your information, I have enclosed some additional information on this problem. Please feel free to share these materials with anyone you choose. Our research is open and available to the public, because we have nothing to hide. We are passionate and dedicated to restoring Constitutional government to America, whereby the rights of individuals are supreme. Governments at all levels should be our public servants, because we are the public and they are the servants. They should not be permitted to utilize threat, duress, and coercion to extort our cooperation with their fraudulent debt schemes. It is just as illegal for them to do it as it is for you and I to do it!

Thanks so much for your interest and for keeping an open mind at this most difficult time in our nation's history.

Sincerely yours,

/s/ John E. Trumane

John E. Trumane
Account for Better Citizenship

c/o General Delivery
San Rafael, California
Postal Zone 94901/tdc

December 26, 1992

Eileen Casady
Mill Valley Post Office
751 E. Blithedale
Mill Valley, California state
Postal Zone 94941-9998/tdc

Dear Eileen:

Happy Holidays to you!

This letter is a follow-up to my previous letter to you, dated August 16, 1992. At that time, you may remember asking me about my use of "/tdc" on mailing labels.

Among other things, in my letter I explained how ZIP codes do expedite the delivery of mail (you would know!) and how the unqualified use of ZIP codes creates a legal presumption that the user is "subject" to Congress. I also explained why a failure to use ZIP codes can and does delay the delivery of mail.

Enclosed please find a photocopy of an envelope which I recently received in San Rafael. This envelope arrived with an extra adhesive sticker on the front of the envelope with the following text:

YOUR MAIL HAS BEEN DELAYED
DUE TO INCORRECT ADRESS
AND/OR ZIPECODE

As you can see from the attached photocopy, I have spelled the words on this adhesive sticker exactly as they are shown. By any chance, does the USPS now refer to them as "zippy" codes?

This photocopy is, therefore, conclusive proof that the U.S. Postal Service does discriminate against the non-use of ZIP codes, contrary to the "Postal Reorganization Act", Section 403, (Public Law 91-375).

Sincerely yours,

/s/ Paul Andrew Mitchell

John E. Trumane
Account for Better Citizenship

attachment

The ZIP Code Issue:
Excerpts from a Personal Letter

by

Howard Freeman

November 11, 1988

Your letter asks for information on the ZIP Code pursuant to something that appeared in the Justice Times some time ago. I wish I had in my possession the article you refer to, so that I could have some idea of what you already know, and could just fill in the details of what you do not understand, but I do not have that article, so I'll try to make the "ZIP Code Issue" clear to you.

There are two entities, or nations, called "The United States". One is the union of 50 independent States combined into a 3-branch (Legislative, Executive & Judicial) Republican Form of government under a contract called: The Constitution for the United States of America. The Other is a 1-branch (Legislative) Democracy, which arises out of the Constitutional Contract wherein Congress (the Legislative Branch of the 3-branch Republic) was given Exclusive rule over a body of people known as: The Residents of the District of Columbia. It should be obvious to anyone that, when a governing body (in this case Congress) has "exclusive" rule over a people, you have a nation. So, in America, we have a small nation, operating upon Roman Civil Law principles, within a larger nation which operates upon

the principles of the Common Law, and is limited in its powers and authority by the Constitutional Contract. I could spend the rest of the day explaining the differences between Roman Civil Law and the Common Law, but instead I will enclose a tape with this letter to you, which will do that for me. Please do me the honor of listening to this tape on both sides. Many people reply, upon my inquiry about the tape I sent to them, that they are too busy to listen to it, which remark I consider somewhat insulting to me, when I have gone to the expense and trouble of getting it into their hands.

As you know, the Republic called The United States, is limited in what it can do by the Constitution, and that Constitution limited its Congress to coining money out of silver or gold, and limited its borrowing power to those two commodities. The Legislative Democracy called: The United States, using the same Congress as the Republic, only for its own ends, has no limitation of any kind on what it might or might not do, since Congress, working in behalf of the Legislative Party or Democracy, has the power and authority to issue a paper currency, and to declare it to be a "legal tender" for all debt public and private. That Congress had no limitation in what it might borrow either! So the National Debt that you hear so much about, came from that Congress's power to borrow other than silver or gold, which was bank credit from the International Banking Houses.

A Problem: What can the Bankers do? Easy solution, since their money controls the news media: keep the citizens of the Republic in the dark, get the lawyers busy, and figure ways of entrapment, so that the Citizens of the Republic would think that it was THEIR Congress that borrowed the bank credit, and that it is their problem to pay the usury on that debt. Steps of Legal Trickery follow:

1. The 14th Amendment, which is based upon Roman Civil Law, supposedly replaced the 4th Amendment, which is based upon the Common Law. That aspect of things is explained on the tape enclosed, so I won't go into it here.

2. Have the Congress of the Republic fail in its duty to provide a medium of exchange for its Citizens, thus forcing them to do their trading in the "Legal Tender" paper which the Congress of the Legislative Democracy has made available. I will skip a few other steps here, and get to the meat of the information you want, which concerns the ZIP Code issue.

3. The Congress of the Republic must be enticed to consolidate 50 independent States into 10, not so independent, Federal Regions. (What Congress creates, Congress can control, is a legal principle.) Now, the same Congress that rules the Legislative Democracy may rule the 10 Federal Regions, provided the citizens thereof can be kept asleep, and not claim their rights under the Federal and State Constitutional Contracts.

4. Have the Post Office Department separate itself from the Republic and, in its new independence, create two-letter abbreviations for all States (contrary to the lawful State abbreviations established by the Legislatures of most

States) and have the Post Office Department require this new abbreviation on all subsidized mail, and suggest it on all first class mail, along with the ZIP Code.

5. Page 11 of the ZIP Code Directory, which can be found in any Post Office, will tell you that the first digit of every ZIP Code number indicates the Federal Region in which the user resides.

6. Now that the majority of the brainwashed public, belonging to the Republic, are educated to employ the two-letter abbreviations for their State, which abbreviations were never adopted by the State Legislatures as the lawful State abbreviations, those using said abbreviation are not making a lawful claim of their State residency and, with the use of the ZIP code in connection with the new two-letter State abbreviation, they are making a lawful claim that they are residents of the particular Federal Region in which they reside, so they can now be ruled under Roman Civil Law and tried in the Admiralty Courts of the Legislative Democracy.

7. With all of that in place, the Income Tax, which is employed to pay the Usury on the National Debt owed by the Legislative Democracy, now applies to the Citizens of the Republic who fail to properly claim and establish their rights as Citizens of their respective States.

8. It is made to appear "Progressive" in our Schools to refer to America as a "Democracy", and somewhat "Reactionary" to study the State and National Constitutions in our schools. This keeps the public ignorant of the fact that the Congress of the "Republic" is limited by Contract from passing any penal statute of compelled performance upon the Citizens of any State. The Internal Revenue Code is all that type of statute, and those statutes ONLY apply to the residents of the District of Columbia (see Article 1, Section 8, Clause 17 of the U.S. Constitution) and also to all those who stupidly fail to claim their State residency and allow themselves to be given to the status of citizens of the United States (meaning the Legislative Democracy) claiming themselves to be residents of a Federal Region which is ruled over by the Democracy under Roman Civil Law.

The above is all needed information if you are to understand the ZIP Code issue. I hope that I have not worn you out with my explanation, as I have done with others, who ask me questions of depth, and who only want some shallow, one-sentence reply.

One other caution before I close: The ZIP Code use, or non use, is NOT a "silver bullet" solution to all problems, wherein the Legislative Democracy, called the United States, forces itself upon you. The enclosed tape will point out other solutions. To properly handle oneself in order to keep out of Legislative Article I Courts exercising Legislative Power, and into the Article III Courts of the Republic which exercise Judicial Power, is another whole study in itself. Again, let me repeat: There Are No Silver Bullets for those who claim to be too busy to study!

Explanation of ZIP Code Address Purpose
(Version 910816Z; rev. 081991)

by

W. C. Updegrave
c/o 300 Adams Street, Esterly
Reading, Pennsylvania
zip code exempt (DMM 122.32)

It is this writer's opinion, both as a result of study, e.g. of page 11 of the National Area ZIP Code Directory; of 26 U.S.C. 7621; of Section 4 of the Federal Register, Volume 51, Number 53, of Wednesday, March 19, 1986, Notices at pages 9571 through 9573; of Treasury Delegation Order (TDO) 150-01; of the opinion in United States v. LaSalle National Bank, 437 U.S. 298, 308, 98 S.Ct.2d 2357, 57 L.Ed.2d 221 (1978); of 12 U.S.C. 222; of 31 U.S.C. 103; and as a result of my actual experience, that a ZIP Code address is presumed to create a "Federal jurisdiction" or "market venue" or "revenue districts" that override State boundaries, taking one who uses such modes of address outside of a State venue and its constitutional protections and into an international, commercial venue involving admiralty concerns of the "United States", which is a commercial corporation domiciled in Washington, D.C.

More specifically, looking at the map on page 11 of the National ZIP Code Directory, e.g. at a local post office, one will see that the first digit of a ZIP Code defines an area that includes more than one State. The first sentence of the explanatory paragraph begins: "A ZIP Code is a numerical code that identifies areas within the United States and its territories for purposes of ..." [cf. 26 CFR 1.1-1(c)]. Note the singular possessive pronoun "its", not "their", therefore carrying the implication that it relates to the "United States" as a corporation domiciled in the District of Columbia (in the singular sense), not in the sense of being the 50 States of the Union (in the plural sense). The map shows all the States of the Union, but it also shows D.C., Puerto Rico and the Virgin Islands, making the explanatory statement literally correct.

Properly construed, ZIP Codes can only be applicable in Federal territories and enclaves that may be located within the 50 States of the Union, and to the "United States" and District of Columbia and its territories -- cf. Piqua Bank v. Knoup, 6 Ohio 342, 404 (1856) and U.S. v. Butler, 297 U.S. 1, 63 (1936) to the effect that "in every state there are two governments; the state and the United States." Therefore, ZIP Code addresses are for the corporate "United States" and its agents, for example, a customs and duty collector at New York harbor, when they move out into the States of the Union to perform functions delegated to the "United States" by the National/Federal Constitution, or the Pennsylvania Department of Transportation, Bureau of Motor Vehicles, or a U.S. Congressman.

But, by propaganda, misleading information and seditious syntax, government has gotten nearly everyone in the 50 States of the Union to use ZIP modes of address, and that creates a PRESUMPTION or a PREJUDICIAL ADMISSION that one is in such a Federal venue, or that one is such a government agent.

In general, it is well settled in law that Income Tax Statutes apply only to corporations and to their officers, agents, and employees acting in their official capacities, e.g. from Colonial Pipeline Co. v. Traigle, 421 U.S. 100, 44 L.Ed.2d 1, 95 S.Ct. 1538 (1975): "... However, all 'income tax statutes' apply only to state created creatures known as corporations no matter whether state, local, or federal." Since corporations act only through their officers, employees, etc., the income tax statutes reach out to them when acting in their official capacities, but not as individuals. This is the real purpose for Identifying Numbers -- cf. 26 CFR 301.6109-1(d) & (g) and 26 U.S.C. 6331(a) and 26 CFR 301.6331-1, Part 4.

Use of a ZIP Code address is tantamount to the admission of being a "citizen of the United States" who does not necessarily have the protections of the first eight Amendments to the Constitution (in the Bill of Rights) when proceeded against by Federal or State authority -- Maxwell v. Dow, 176 U.S. 581, 20 S.Ct. 448 (1900), but, "All the provisions of the constitution look to an indestructible union of indestructible states", Texas v. White, 7 Wall. 700; U.S. v. Cathcart, 25 F.Case No. 14,756; In re Charge to Grand Jury, 30 F. Case No. 18,273 (65 C.J. Section 2) -- not known to be overturned.

# # #

Also available from the same author:

"Brief of Law for ZIP Code Implications," by W. C. Updegrave, c/o 300 Adams Street Esterly, Reading, NON-DOMESTIC, Pennsylvania (11 pages plus "Appendix of Unused Data and Quotes")

My Continuing Objection to Mail Sent with a
National Area ZIP Code Mode of Address

by

W. C. Updegrave
c/o 300 Adams Street, Esterly
Reading, Pennsylvania
zip code exempt (DMM 122.32)

1. In spite of my repeated demands that you correct the way in which you send mail to me, you insist and persist, over my most strenuous objections and contrary to my repeated NOTICES to you, to continue to send my mail with a National Area ZIP Code, which is both unnecessary, even by the application of Domestic Mail statutes and regulations, and is, in fact, an unlawful and fraudulent attempt to define me into an alien and foreign venue and jurisdiction that are, as a matter of fact, contrary to the

Federal and State Constitutions and the case law that has developed on this issue. Briefly put, on the basis of my studies, such an address can only properly apply to Federal enclaves within the States of the Union, and perhaps to 14th Amendment citizens of the United States. For this reason alone, you are either making a mistaken or a fraudulent presumption as to my status. How would you prefer to be classified: as one who made an error? or one who has committed acts of fraud? If it is fraudulent, then you are also engaged in a conspiracy against me and mine. All such mail is reviewed without prejudice but not accepted.

2. My use of the term "without prejudice, U.C.C. 1-207" in connection with my signature on this document, or any prior document or instrument, indicates that I have exercised the remedy provided for me in the Uniform Commercial Code, Article I, Section 207, whereby I have reserved my natural and common law right not to be compelled to perform under any contract, commercial agreement, or bankruptcy that I did not enter knowingly, voluntarily and intentionally, and reserved all other Uniform Commercial Code and common law remedies. It also indicates that I do not intend to ratify any fraudulently induced contract by continued acceptance of the benefits thereof. Furthermore, it notifies all administrative agencies of government that I do not and will not accept the liability associated with the compelled benefit of any unrevealed contract, commercial agreement or bankruptcy.

3. Briefly put, Domestic Mail Manual (DMM) Section 111.2 and the copyrighted (hence, "private" and not governmental at all) NATIONAL AREA ZIP CODE DIRECTORY, page 11, both identify the term "United States" by using the third person, singular, personal pronoun "its", which relates only to the "United States" at the District of Columbia, its territories and ceded enclaves, its agents and its "citizens". In this context, the term "citizen of United States" has a very restricted definition -- cf. 26 C.F.R. 1.1-1(c) and 301.6109(g); 42 U.S.C. 1981 & 1982; 26 U.S.C. 3121(e); 26 U.S.C. 7701(a)(9) & (10); etc. It is to

be noted that in DMM 111.2, the term "United States" is used, but none of the fifty states as the States in the Union is mentioned; therefore, the maxim expressio unius est exclusio alterius (mention of one thing implies the exclusion of others) becomes applicable. The 1789 Federal/National Constitution always makes a distinction between the "States in the Union" and the "United States", the former always being referenced in the plural, and the latter sometimes being so referenced. The "United States" has no venue or jurisdiction within unceded territories inside the "States in the Union" (e.g. see Pollard's Lessee v. Hagan, 44 U.S. (3 How.) 212, 221, 223 (1845); New Orleans v. U.S., 35 U.S. (10 Pet.) 662, 737 (1836); 4 U.S.C. 72; 48 U.S.C. Chapters 2 and 3, "The Alaska and Hawaii Omnibus Acts"; 18 U.S.C., Appendix, FRCrP Rules 1 and 54(c); etc.) except where a man or a corporation can be presumed to be a "citizen of the United States" (see 26 C.F.R. 1.1-1(a), (b) and (c)), or a "Federal citizen", or a "National citizen" (see U.S. v. Lee, 455 U.S. 252, 102 S.Ct. 1051, 71 L.Ed.2d 127 (1982), stating that National ("United States") citizenship mandates Social Security participation, but the issues of jurisdiction and venue were not raised in that case, and it was argued on narrow and

inappropriate statutory grounds -- cf. the dissent in Maine v. Thiboutot, 448 U.S. 1, 65 L.Ed.2d 555, 100 S.Ct. 2502 (1980), pages 30-31 especially).

> "All legislation is prima facie territorial."
>
> [American Banana Co. v. United Fruit Co.]
> [213 U.S. 347, 356-357 (1909)]

> "Legislation is presumptively territorial and confined to limits over which the law-making power has jurisdiction."
>
> [New York Central R.R. Co. v. Chisholm]
> [268 U.S. 29, 31-32 (1925)]

> ... [T]he "canon of construction which teaches that legislation of Congress, unless a contrary intent appears, is meant to apply only within the territorial jurisdiction of the United States ...."
>
> [U.S. v. Spelar, 338 U.S. 217, 222]
> [70 S.Ct. 10 (1949)]

4. Without getting into the several definitions of the term "citizen", which the courts generally construe to mean a mere civil status for one who is politically involved, McCafferty v. Guyer, 59 Pa. 109, 126-127 (Agnew dissent), etc., but sometimes the term is limited to a representative of a city in Parliament, or one who is involved in the conduct and policy making of a civil government, the following is certain authority on the subject for those who are in that category. Persons who are "citizens of the United States" do not necessarily have all

the protections of the first eight amendments to the U.S. Constitution when proceeded against by federal and state authorities (e.g., see Maxwell v. Dow, 176 U.S. 581, 20 S.Ct. 448 (1900)). One of the elements that can lead to such presumptions, by inference, is the acceptance of mail with a ZIP code mode of address. In Hooven & Allison v. Evatt, 324 U.S. 652, 671-672 (1945), the U.S. supreme Court has ruled that there are three recognized meanings for the term "United States", to wit:

> The term "United States" may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States extends, or it may be the collective name of the states which are united by and under the Constitution./6

> 6. See Langdell, "The Status of our New Territories," 12 Harvard Law Review 365, 371; see also Thayer, "Our New Possessions," 12 Harvard Law Review 464; Thayer, "The Insular Tariff Cases in the Supreme Court," 15 Harvard Law Review 164; Littlefield, "The Insular Cases," 15 Harvard

Law Review 169, 281.

But, those three meanings are simply evidence of the word games that the courts, legislatures and bureaucrats have played with the minds and rights of the freemen in this country. See also the clear admission in Ex Parte Knowles, 5 Cal. 300 (1855).

5. The map on page 11 of the ZIP CODE DIRECTORY indicates that ZIP code denominators combine more than one of the States of the Union, hence they define a special venue related to revenue districts established, for example, by 26 U.S.C. 7621(a) and (b), and those are the only legitimate purposes for such a mode of address. For instance, the ZIP codes that denominate certain areas in the States of New York and Pennsylvania all use a five-digit ZIP code, the first numeral of which begins with a "1", e.g. "19600". On page 15, ibid., a list is given of state abbreviations with two capital letters, to be used in conjunction with ZIP codes.

6. Contrary to popular belief, "citizenship of the United States" arises from the so-called 14th Amendment, and did not exist before that fraudulent enactment was foisted on the unsuspecting free men (see Utah v. Phillips, 540 P.2d 936 (1975); Dyett v. Turner, 439 P.2d 266, 272 (1968); Adamson v. California, 332 U.S. 46 et seq. (1947); Ex Parte Knowles, 5 Cal. 300 (1855); Van Valkenberg v. Brown, 43 Cal. 43, 47 (1872); U.S. v. Anthony, 24 Fed. Case No. 14,459 at 830 (1873); Cory et al. v. Carter, 48 Ind. 327, 349-350, 17 Am. Rep. 738 (1874); Sharon v. Hill, 26 Fed. Reporter 337 at 343-344; State v. Manuel, 20 N.C. 144, 152; Arver v. U.S., 245 U.S. 366, 388-89 (1917); Hague v. C.I.O., 307 U.S. 496, 509 (1938)). In fact, such statutory provisions as 42 U.S.C. 1981 and 1982, now

codified in the same title of the U.S. Codes as the Social Security Act (so called), still clearly make a distinction between "citizen of the United States" and "white state citizen".

It is also clear from various other authorities that there is a distinction between state citizenship for whites and 14th Amendment citizenship of the United States, since even such a distinction can be drawn from the language of the infamous 14th Amendment itself. In Cory v. Carter, supra, quoting and basing its analysis on the opinion in the Slaughter House Cases, 16 Wall. 36, the court, with respect to the First Section, said:

> "... [I]t overturns the Dred Scott decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States. That **its main purpose was to establish the citizenship of the negro** can admit of no doubt." ... It recognizes and establishes a "distinction between citizenship of the United States and citizenship of a State."
>
> [emphasis added]

However, with reference to the second clause, that same opinion continues:

> This clause does not refer to citizens of the States. It

> embraces **only** citizens of the United States. It leaves out the words "citizen of the State," which is so carefully used, and used in contradistinction to citizens of the United States, in the preceding sentence. It places the privileges and immunities of citizens of the United States under the protection of the Federal Constitution, and leaves the privileges and immunities of citizens of a State under the protection of the State constitution. This is fully shown by the recent decision of the Supreme Court of the United States in the Slaughter-House Cases, 16 Wall. 36.
>
> [emphasis added]

7. There are lots of reasons to believe, e.g. by an examination of 42 U.S.C. 1982 (which distinguishes between "citizens of the United States" and "white state citizens"), that Taney's dicta in the Dred Scott case was not really overturned by the 14th Amendment, and lots of authorities to show that it was never validly adopted or ratified and that, in fact, the 14th Amendment did not repeal any part of the original 1789 Constitution for the United States of America.

Therefore, please state concisely, with supporting points, rationale and authority: What are the underlying presumptions by which you send me mail using such a mode of address?

Recorded Delivery #A 004 341 049
Return Receipt Requested

c/o General Delivery
San Rafael
California state
zip code exempt
(DMM 122.32)

November 14, 1992

Disclosure Officer
Internal Revenue Service
Agents of Foreign Principals
c/o P. O. Box 2900
Sacramento, California

Subject: NOTICE and DEMAND

Dear Disclosure Officer:

I am writing this NOTICE and DEMAND letter as a courtesy to inform you that I have refused a letter from your office which was deposited today in USPS Post Office Box xxxx, San Rafael, California. This letter was refused and rejected, unopened, with written instructions to RETURN TO SENDER as shown at the upper left corner of the envelope.

Evidently, you have chosen to ignore the mailing instructions which are clearly stated on page 2 of my Freedom of Information Act request, dated October 23, 1992 (a copy of which is attached, for your information). I have highlighted the mailing location which you must use in order to correspond with me in writing.

I am forced to conclude, therefore, that your deliberate refusal to follow these simple and reasonable mailing instructions is evidence of your bad faith in this matter and constitutes proof of your failure to comply with all stated requirements of my lawful FOIA request. You are hereby warned that you are under the legal obligation of good faith, and that bad faith on your part is synonymous with fraud.

Please also be advised that I will be happy to receive (but not accept) mail from you, provided that it conforms to the requirements as stated in my Freedom of Information Act request. These requirements must be met by your use of the proper mailing destination on envelopes and on all correspondence and other documents enclosed within mailing envelopes.

Finally, I hereby demand written confirmation from you that the receipt and use of envelopes and their contents with ZIP codes and/or two-letter federal abbreviations (e.g., "CA") does NOT grant jurisdiction over State Citizens to the Internal Revenue Service, the "United States" or any of its agencies, assigns or instrumentalities.

This written confirmation must be signed in pen and ink by you, with your true and correct name/identification (not an alias), under penalties of perjury, as required of you by 26 U.S.C. 6065.

I am making this demand because I am a California State Citizen (see 1:2:3, 4:2:1 and 3:2:1 in the Constitution for the United States of America). I am not a "citizen of the United States". You are expected to know the Law in this California Republic which has been interpreted by the California Supreme Court as follows:

> **A citizen of any one of the States of the union, is held to be, and called a citizen of the United States, although technically and abstractly there is no such thing.** To conceive a citizen of the United States who is not a citizen of some one of the States, is totally foreign to the idea, and inconsistent with the proper construction and common understanding of the expression as used in the Constitution, which must be deduced from its various other provisions. The object then to be attained, by the exercise of the power of naturalization, was to make **citizens of the respective States.**
>
> [Ex Parte Knowles, 5 Cal. 300 (1855)]
> [emphasis added]

Please be advised that any attempts to trick, entice, coerce, inveigle, ensnare or cajole me into accepting, under the Uniform Commercial Code, any mail addressed in any manner other than that specified in my original FOIA, in an unlawful attempt on your part to grant jurisdiction over me to some arbitrary federal district, will be further evidence of bad faith for which you may be sued, in the event that you attempt to do anything on the basis of such incorrectly addressed mail or correspondence.

Thank you in advance for your good faith, your

consideration, and your cooperation in this matter.

Sincerely yours,

/s/ John E. Trumane

John E. Trumane
Sovereign California Citizen

All Rights Reserved Without Prejudice

enclosure: true and correct copy of
Freedom of Information Act
request, dated 10/23/92

Certified Mail #P 840 292 047
Return Receipt Requested

c/o General Delivery
San Rafael
California state

October 23, 1992

Mr. Raymond A. Spillman
District Director
Internal Revenue Service
P. O. Box 2900
Sacramento, California

Re: Freedom of Information Act Request

Dear Mr. Spillman:

This is a request under the Freedom of Information Act, and my formal written response to your letter to me, dated September 24, 1992, a copy of which is attached for your information.

Without dishonor, I hereby request that you provide me with true and correct copies of the following:

(1) all documents on which you based your presumptive determination that I am a "United States citizen" or a "citizen of the United States";

(2) all documents on which you based your presumptive determination that I am "subject" to any provisions of the Internal Revenue Code (IRC) and its regulations;

(3) all documents on which you based your presumptive determination that I am an "individual" as that term is used in Part I, Section 1 of the IRC;

(4) all documents on which you based your presumptive determination that I am one of the "individuals" described in paragraphs 1, 2 and 3 of your letter;

(5) all documents on which you based your presumptive determination that I am a "person liable" for any taxes imposed by the IRC and its regulations;

(6) all documents on which you based your presumptive determination that I am a "person required" to make and file a return;

(7) all documents on which you based your presumptive determination that I am now receiving, or have in the past received, "taxable income";

(8) all documents on which you based your presumptive determination that I am a "taxpayer" as that term is defined in the IRC;

(9) your identification and evidence of your authority to make and present presumptive determinations about me, such as those contained in your attached letter dated "SEP 24 1992", per U.C.C. Section 3-505.

You are hereby placed on actual notice that I explicitly reserve my right to rebut any and all factual presumptions which you have made in support of your letter to me.

In your letter, you stated that you "will not respond to future letters concerning these same issues". I must remind you that the Freedom of Information Act (5 U.S.C. 552(a) et seq.) does not give you any choice in this matter.

The law mandates that you supply me with the information requested. The documents which I am requesting are not exempted from disclosure.

I am willing to pay fees for this request up to a maximum of $20. If you estimate that the fees will exceed this limit, please inform me first by writing to me, care of the mailing location described below.

I fully expect and demand a response to this request within the statutory time limits, as set forth in 5 U.S.C. 552(a)(6)(A)(i).

Please send your timely, written response, signed in pen and ink, to the following location:

John E. Trumane
c/o General Delivery
San Rafael, California state
NON-DOMESTIC zip code exempt

Thank you very much for your kind and earnest consideration of this request, and for your due diligence in providing the documents itemized above.

Sincerely yours,

/s/ John E. Trumane

John E. Trumane
with explicit reservation of all my unalienable rights
and without prejudice to any of my unalienable rights

attachment: copy of your letter to me dated "SEP 24 1992"

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States," that I am at least 18 years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE AND DEMAND FOR MANDATORY JUDICIAL NOTICE:
Rule 201(d), Federal Rules of Evidence;
Full Faith and Credit Clause; P.L. 91-375, Section 403

by placing one true and correct copy of said document(s) in first class U.S. Mail, with postage prepaid and properly addressed to the following:

James E. Hedgspeth, Jr.
Etowah County Offices
c/o 800 Forrest Avenue
Gadsden [zip code exempt]
ALABAMA STATE

Clerk of Court
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden [zip code exempt]
ALABAMA STATE

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Clerk of Court
Alabama Court of Criminal Appeals
c/o P.O. Box 301555
Montgomery [zip code exempt]
ALABAMA STATE

Attorney General
Department of Justice
10th and Constitution, N.W.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Clerk of Court
District Court of the United States
c/o 1729 Fifth Avenue North
Birmingham [zip code exempt]
ALABAMA STATE

Chief Judge
11th Circuit Court of Appeals
c/o 56 Forsyth Street, N.W.
Atlanta [zip code exempt]
GEORGIA STATE

William H. Rehnquist, C.J.
Supreme Court of the United States
1 First Street, N.E.
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Executed on _____

/s/ Mike Kemp

William Michael, Kemp, Sui Juris
Citizen of Alabama state

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
non-domestic zip code exempt

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	Case No. #CV-97-H-0022-M
Plaintiff [sic]	16th Cir. Case #CC-95-1083-DWS
v.	MEMORANDUM OF POINTS AND AUTHORITIES PROVING THE VOLUNTARY NATURE OF FEDERAL INCOME TAXES (incorporating all attached exhibits by reference)
WILLIAM MICHAEL KEMP [sic],	
Defendant [sic]	

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled action (hereinafter "Defendant"), to provide formal Notice to all interested party(s), and to demand mandatory judicial notice by this honorable Court, pursuant to Rules 201(d), 301, and 302 of the Federal Rules of Evidence, of this, Defendant's MEMORANDUM OF POINTS AND AUTHORITIES PROVING THE VOLUNTARY NATURE OF FEDERAL INCOME TAXES, particularly for all 3 judges who have been properly requested to issue a Warrant of Removal to this honorable District Court of the United States ("DCUS"), and any single judge who may be assigned to preside over preliminaries.

1. Evans v. Gore, 253 U.S. 245 (1920) is controlling,

notwithstanding the so-called 16th Amendment, because said "amendment" never repealed Article III, Section 1. Repeals by implication are not favored, on authority of the Ninth Circuit Court of Appeals. See U.S. v. Hicks, [cite omitted] (9th Cir., 1991). Evans has never been overturned (see Shepard's Citations), notwithstanding a UCLA Law Review article which alleges the contrary. See Vol. 24, No. 2, December 1976, p. 308.

2. The 16th Amendment was effectively demolished by respondent's total silence in People v. Boxer, California Supreme Court, case number S-030016, December 1992. This case was a Petition for Writ of Mandamus compelling Senator-elect Boxer to witness the material evidence which the plaintiffs had assembled against the ratification of that proposal. The California Supreme Court transferred the case to the Court of Appeals, for an advisory opinion; that appellate panel denied the petition, without explanation. However, respondent Boxer fell totally and completely silent in the face of the affidavits of fact filed in that case; those affidavits have now become the truth of the case. Moreover, Boxer's silence is a fraud, pursuant to U. S. v. Tweel, 550 F.2d 297, 299 (1977); and silence activates estoppel, pursuant to Carmine v. Bowen, 64 A. 932 (1906).

3. Title 26, United States Code ("U.S.C."), has never been enacted into positive law. Therefore, Title 1, U.S.C., and Internal Revenue Code ("IRC") section 7851(a)(6)(A) both control; specifically, the provisions of subtitle F have never taken effect. Subtitle F contains all the enforcement provisions of the IRC including, but not limited to, the grant of original jurisdiction to prosecute alleged violations of the IRC. See 26 U.S.C. 7402. There are no regulations for this statute either, thus limiting its application to federal officers, employees, and contract agents of the United States (federal government), pursuant to 44 U.S.C. 1505(a). Title 44, U.S.C., has been

enacted into positive law.

4. As far as the federal income tax is concerned, the only liability statutes anywhere in the IRC (as distinct from Title 26) are found in the provisions for withholding agents [sic]. See IRC 1441, 1442, 1443, 1461, and the statutory definition of "withholding agent" at IRC 7701(a)(16). One does not become a withholding agent until and unless said agent accepts a valid W-4 "Employee's Withholding Allowance Certificate" (allowing withholding). For many reasons like this, the federal income tax is totally voluntary on compensation for services rendered.

5. The regulations at 26 CFR 1.1-1(a) thru (c) are overly broad for imposing liabilities which are not authorized by statute, specifically, on "citizens of the United States" [sic] and on "residents of the United States" [sic]. The doctrine of "implied legislative approval" cannot prevail against all the points supra. See Old Colony R. Co. v. C.I.R., 284 U.S. 552, 557 (1932), for example. Authorities must be expressly enumerated. The U.S. Department of the Treasury was never authorized by any Act of Congress to extend liability for the federal income tax in such an overly broad fashion, as is the case in said regulations.

6. The term "citizen of the United States" has its statutory origin in the 1866 Civil Rights Act, and its constitutional origin in the so-called 14th Amendment [sic], which was never lawfully ratified, rendering section 4 of that alleged amendment null and void ab initio, and permitting federal judges, and all other federal employees, to question the validity of the public debt. See the First Amendment; Dyett v. Turner, 439 P.2d 266 (1968); State v. Phillips, 540 P.2d 936 (1975). Section 4 of the so-called 14th Amendment is one of the least litigated provisions in the entire U.S. Constitution, unlike

other sections of that so-called amendment.

7. The only basis remaining for taxing the compensation of federal judges is the Downes Doctrine, which cannot be extended into the state zone, nor to the judges who preside on federal courts established for the state zone. The Downes Doctrine is obsolete and unconstitutional, because Justice Harlan was correct in his eloquent dissent in Downes v. Bidwell, 182 U.S. 244 (1901), paraphrasing now: the limitations of the Constitution extend to the farthest reaches of the known universe, as far as United States (federal government) employees are concerned. The Downes Doctrine has permitted a serious tear to rip the entire fabric of Our constitutional Republic, as manifested by the controversy now swirling about the proper distinction between the USDC and the DCUS, their respective subject matter(s), and their respective territorial jurisdiction(s).

8. The Downes Doctrine was attacked properly In re Grand Jury Subpoena Served on New Life Health Center Company, USDC, Tucson, Arizona, case number GJ-95-1-6, but United States District Judge John M. Roll exceeded his discretion in that case by failing to rule on numerous proper and timely motions which were before him, including a formal challenge to the constitutionality of the Downes Doctrine. Judge Roll committed over 100 felonies in that one case alone, and a proper judicial complaint has been filed against Judge Roll, pursuant to 28 U.S.C. 372(c). See Ninth Circuit docket number assigned to that complaint, available from the Clerk of the Ninth Circuit in San Francisco, California state. All pleadings, exhibits, and related documents filed in that case are incorporated here by reference, as if set forth fully herein, pursuant to Rule 201(d) of the Federal Rules of Evidence, and the Full Faith and Credit

Clause. See Supremacy Clause; Seventh Amendment; FRCP Rule 38.

9. Title 31, U.S.C., has been enacted into positive law, pursuant to Title 1, U.S.C., but the "Internal Revenue Service" [sic] ("IRS") is not listed in the organizational structure of the U.S. Department of the Treasury. The only mention is an authority for the President to appoint the General Counsel for the "Internal Revenue Service" [sic]. This mention is insufficient to identify the true organizational situs of the "Internal Revenue Service."

10. The "Internal Revenue Service" has now been proven to be an alias for Trust #62, which is domiciled in Puerto Rico under the Federal Alcohol Administration ("FAA"), but the FAA was declared unconstitutional in the year 1935 by the U.S. Supreme Court. The FAA had its historical roots in Prohibition, which was motivated by the goal of monopolizing automotive fuels for the benefit of the petroleum cartel. See the Volstead Act and the attached Affidavit of author Paul Andrew Mitchell, summarizing this motive. See also "The Cooper File."

11. Taxing the compensation of federal employees creates an unnecessary and deceptive bureaucracy, the primary purpose of which is to skim money from the U.S. Treasury, for the benefit of foreign banks and their alien owners. Congress should advertise the "real" compensation paid to federal employees, and exempt them from filing returns and from paying taxes on an "inflated" salary, only a part of which the federal employee ever sees. For this reason, the Public Salary Tax Act should be repealed, because its deceptive purpose is unconstitutional.

12. The court of original jurisdiction to prosecute

violations of the IRC is defined in a statute which is found in subtitle F. See 26 U.S.C. 7402. Subtitle F has never taken effect because Title 26 has never been enacted into positive law. For this reason alone, criminal prosecutions of alleged IRC violations are legally impossible, and they create a massive tort liability for the United States (federal government). See People v. United States et al., DCUS, Billings, Montana state, as a foundation for quantifying the real damages which have already been done by the U.S. Department of Justice to untold numbers of American Citizens (read "Citizens of one of the States United").

13. All United States (federal government) actions, civil and criminal, which were done under authority of the Secretary of the Treasury during Lloyd Bentsen's tenure in that office, were ultra vires because he violated the U.S. Constitution when he voted to increase the pay for that office, as a U.S. Senator, and then he vacated his Senate seat to claim the office of Secretary. However, Lloyd Bentsen was not eligible for that office until the end of his last Senate term. See Article I, Section 6, Clause 2 ("1:6:2").

A FOIA request for a list of all civil and criminal cases which were brought under his watch has not been answered to date. This, again, has created a massive tort liability for the United States (see point 12 above). Failure to answer this FOIA is tantamount to fraud and obstruction of justice, not to mention a host of other criminal torts. See IRC 7401 for the implications; see also USA v. One 1972 Cadillac Coupe De Ville, 355 F.Supp. 513, 515 (1973). Failure to place proof of requisite jurisdictional facts in the court record, when specifically denied, is fatal to any court action. However, IRC 7401 is also found in subtitle F of the IRC (see discussion at point 3 supra).

14. Lloyd Bentsen was unable to delegate any authority downwards during the period in which he claimed to occupy the office of Secretary of the Treasury. This disability has meant that all tax assessments which were made by the Internal Revenue Service (as opposed to voluntary taxpayer self-assessments) were ultra vires per force, because the assessment officers could not exercise any delegated authority. See U.S. v. Brafman, 384 F.2d 863, 867 (5th Cir. 1967) for a court authority holding that assessment officers must sign assessments before they can be valid; without delegation of authority, the signatures are not those of assessment officers. *Lex non cogit impossibilia.* The IRC defines the term "Secretary" to mean the "Secretary of the Treasury or his delegate"; without delegation, there can be no delegates. Without an authorized officer to head the U.S. Department of the Treasury, there can be no Secretary of the Treasury, and hence no Secretary whatsoever, under any circumstances. Delegation was, therefore, impossible.

15. The Appointment Affidavits signed by IRS employees are unconscionable contracts, because they express the employees' contractual commitment to support the U.S. Constitution; however, it is quite simply impossible for Citizens to enforce, and it is also impossible for public employees to obey, their solemn oaths to support the U.S. Constitution, if the weight of material evidence now proves that the exact provisions of that Constitution are still in doubt, for any reason. See discussion of 14th and 16th amendments [sic] supra; also People v. Boxer supra. This question concerning the equitable nature of Oaths of Office was specifically raised in People v. Boxer.

16. Again, the respondents In re Grand Jury Subpoena supra properly and timely raised this objection, when the first

Appointment Affidavit was produced by the so-called "Special Agent" in that case, in response to a proper request brought under the Freedom of Information Act ("FOIA"); but U.S. District Judge John M. Roll abused his discretion by failing to rule on that motion and decided instead to commit over 100 felonies, including but not limited to 28 counts of mail fraud, 28 counts of jury tampering, 28 counts of obstruction of justice, and 28 counts of conspiracy to commit all of the above. Judge Roll did, however, rule that the USDC is not the proper forum to bring a request under the Freedom of Information Act ("FOIA"). See 5 U.S.C. 552(a)(4)(B). If the USDC is not the proper forum to bring a request under the FOIA, then neither is it the proper forum for prosecuting any criminal violations of Title 18, U.S.C. See 18 U.S.C. 3231, and rules of statutory construction in Title 1, U.S.C. Singular and plural refer to the same entity always. Title 1, U.S.C., has been enacted into positive law. See Supremacy Clause. The Administrative Office of the United States Courts has alleged, in writing, that U.S. District Judge John M. Roll is an Article III judge.

17. Congresswoman Barbara Kennelly has admitted, on House stationery transmitted through the United States Postal Service ("USPS"), that the term "State" at IRC 3121(e) is restricted to the named territories and possessions, and does not include the several States of the Union. She put this admission in writing, after first consulting with "experts" in the office of the Legislative Counsel, and also in the office of the Congressional Research Service. Rep. Kennelly's admission provides absolutely stunning support for the main (and highly controversial) thesis of a book entitled The Federal Zone: Cracking the Code of Internal Revenue, electronic fifth edition. Not long after

publication of the printed first edition in 1992, the Supreme Court of the United States utilized the term "federal zone" as a household word in their sweeping decision in U.S. v. Lopez, 115 S.Ct. 1624 (1995), Kennedy concurring. The term "federal zone" now has a permanent place in the history of American constitutional jurisprudence.

18. The Petitioner in the case of Burnett v. Commissioner, KTC 1996-292, D.V.I. 1996, is reported to have prevailed against the Respondent, the Commissioner of Internal Revenue, on this very same point, namely, the definition of "United States" is restricted to the federal zone. The court in that case stated that Subtitle A taxes apply only to the District of Columbia and to the Territories of the United States. Referring to IRC section 7701(a), Definitions, subsection (9), that court pointed out that the term "United States" includes only the above. IRC 7701(a) reads "(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof --", and subsection (a)(9) reads "(9) United States. The term 'United States' when used in a geographical sense includes only the States and the District of Columbia." No other definition of the term "United States" is offered anywhere in IRC Subtitle A. A written request for a certified copy of that court's written opinion was faxed to the Clerk of the USDC, Virgin Islands, on Wednesday, January 22, 1997 (see attached). For an authoritative discussion of these key definitions and their proper construction, see the book The Federal Zone supra.

VERIFICATION

I, William Michael, Kemp, Sui Juris, hereby declare, under penalty of perjury, under the laws of the United States of America, without the "United States", and under knowledge of the

law forbidding false witness before God and men, attest and affirm that I have read the foregoing and know the contents thereof, and that the same is true of My own knowledge, except those matters herein alleged on information and belief, and as to those matters, I believe them to be true, so help Me God, pursuant to 28 U.S.C. 1746(1).

Executed on January 24, 1997:

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least eighteen years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

MEMORANDUM OF POINTS AND AUTHORITIES
PROVING THE VOLUNTARY NATURE OF
FEDERAL INCOME TAXES

by placing one true and correct copy of said document(s) in first class United States mail, with postage prepaid and properly addressed to the following:

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

William H. Rehnquist, C.J.
Supreme Court of U.S.
1 First Street, N.E.
Washington, D.C.

James E. Hedgspeth, Jr.
Etowah County Offices
c/o 800 Forrest Avenue
Gadsden, Alabama state

Clerk of Court
District Court of the U.S. [sic]
c/o 1729 Fifth Avenue North
Birmingham, Alabama state

Clerk of Court
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden, Alabama state

Attorney General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

Clerk of Court
Court of Criminal Appeals
c/o P.O. Box 301555
Montgomery, Alabama state

Chief Judge
11th Circuit Court of Appeals
c/o 56 Forsyth Street, N.W.
Atlanta, Georgia state

Executed on January 24, 1997:

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

# # #

ATTACHMENT A:

"Congresswoman Suspected of Income Tax Evasion"

by

Paul Andrew Mitchell, B.A., M.S.

# # #

ATTACHMENT B:

Fax Request to Clerk of USDC, Virgin Islands

# # #

ATTACHMENT C:

"Karma and the Federal Courts"

by

Paul Andrew Mitchell, B.A., M.S.

# # #

ATTACHMENT D:

NOTICE OF FREEDOM OF INFORMATION ACT (FOIA)
APPEAL RESPONSE BY IRS DISCLOSURE OFFICER,
NOTICE OF PROBABLE FRAUD, AND
MOTION FOR DECLARATORY JUDGMENT:
In re Grand Jury Subpoena Served on

New Life Health Center Company

# # #

ATTACHMENT E:

NOTICE OF MOTION AND
MOTION FOR CONTINUANCE AND RECONSIDERATION,
AND CHALLENGE TO HOLDINGS OF U.S. SUPREME COURT:
In re Grand Jury Subpoena Served on
New Life Health Center Company

# # #

Attachment F:

AFFIDAVIT OF DEFAULT AND OF PROBABLE CAUSE:
In re Grand Jury Subpoena Served on
New Life Health Center Company

# # #

ATTACHMENT G:

Letter to Carol S. Sefren, Chief
Judges Compensation and Benefits Branch
Article III Judges Division

# # #

ATTACHMENT H:

FIRST AMENDMENT PETITION TO CONGRESS
FOR REDRESS OF GRIEVANCES

# # #

ATTACHMENT I:

"BATF/IRS -- CRIMINAL FRAUD"

by

William Cooper

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
non-domestic zip code exempt

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	Case No. CV97-H-0022-M
Plaintiff [sic]	16th Cir. Case #CC-95-1083-DWS
v	NOTICE AND DEMAND TO RESCIND "EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE": United States Constitution, Article III, Section 1; Evans v. Gore, 253 US 245 (1920); Miles v. Graham, 268 US 501 (1925)
WILLIAM MICHAEL KEMP [sic], Defendant [sic]	

Greetings to You:

Senior Judge James H. Hancock
United States District Court
for the Northern Judicial District of Alabama
c/o 1729 5th Avenue North
Birmingham, Alabama state

Formal NOTICE AND DEMAND are hereby respectfully made upon You, a Senior Judge of the federal judiciary, by Me, William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and defendant in the above entitled matter (hereinafter "Defendant"), that you, as a seated judge of the federal judiciary, claiming jurisdiction under Article III of the Constitution for the United States of America (hereinafter "U.S. Constitution"), by your ORDERS [sic] issued by mistake in the above matter, have brought to My attention the fact that you are in violation of said provision of

the U.S. Constitution, to wit:

> The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.
>
> [U.S. Constitution, Article III, Section 1]
> [emphasis added]

See Article III, Section 1, and Evans v. Gore, 253 U.S. 245 (1920) (never overturned), and Miles v. Graham, 268 U.S. 501 (1925).

It is therefore My fundamental Right respectfully to demand that you forthwith rescind your Internal Revenue Service [sic] Form W-4, "Employee's Withholding Allowance Certificate," under penalty of perjury, and file said recission in the official record of the District Court of the United States [sic] in the instant case.

If the rescission demanded is not so filed by 5:00 p.m. on Friday, March 14, 1997, I will be entitled to proceed on the basis of the conclusive presumption that you cannot, or will not, invoke the fundamental immunity expressly stated for Article III United States District Judges, and that you are forever barred from presiding in the instant case. Silence activates estoppel, pursuant to Carmine v. Bowen, 64 A. 932 (1906).

NOTICE OF DEADLINE

Defendant hereby demands that the above requested remedy be granted no later than 5:00 p.m. on Friday, March 14, 1997. Time is of the esence.

Thank you very much for your consideration.

Executed on February 17, 1997:

/s/ Mike Kemp

_____

William Michael, Kemp, Sui Juris
Citizen of Alabama state

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least eighteen years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE AND DEMAND TO RESCIND
"EMPLOYEE'S WITHHOLDING ALLOWANCE
CERTIFICATE":
United States Constitution
Article III, Section 1;
Evans v. Gore, 253 U.S. 245 (1920);
Miles v. Graham, 268 U.S. 501 (1925)

by placing one true and correct copy of said document(s) in first class U.S. Mail, with postage prepaid and properly addressed to the following:

Clerk of Court
Alabama Court of Criminal Appeals
c/o P.O. Box 301555
Montgomery, Alabama state

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

James E. Hedgspeth, Jr.
Etowah County Offices
c/o 800 Forrest Avenue
Gadsden, Alabama state

Clerk of Court
District Court of the U.S.
c/o 1729 Fifth Avenue North
Birmingham, Alabama state

Clerk of Court
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden, Alabama state

Attorney General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

Executed on February 17, 1997

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

# # #

Return to Table of Contents for

Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
(non-domestic zip code exempt)

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	Case No. CV97-H-22-M
Plaintiff [sic]	16th Cir. Case #CC-95-1083-DWS
v	NOTICE OF REFUSAL FOR CAUSE OF ORDER REMANDING THIS ACTION TO THE CIRCUIT COURT FOR ETOWAH COUNTY
WILLIAM MICHAEL KEMP [sic],	
Defendant [sic]	Rule 201(d), 301, and 302, Federal Rules of Evidence Rule 9(b) FRCP

COMES NOW William Michael Kemp, Sui Juris (hereinafter "Petitioner"), to provide formal Notice to all interested party(s), and to demand mandatory judicial notice by this honorable Court, pursuant to Rules 201(d), 301, and 302 of the Federal Rules of Evidence, of this, Petitioner's formal Refusal, pursuant to Rule 9(b) of the Federal Rules of Civil Procedure, of the alleged ORDER of the honorable James H. Hancock, Chief Judge, United States District Court (hereinafter "Chief Judge"), issued and filed erroneously in the instant case on January 8, 1997. Petitioner refuses said ORDER for fraud, as is demonstrated with particularity in the following, to wit:

1. Because Petitioner seeks, as is His Right, to invoke Constitutional (Article III) judicial authority in protection of His Rights guaranteed under the Constitution for the United States of America, as lawfully amended ("U.S. Constitution"), and declares that these Rights have been violated by a "Drug Task Force" of Etowah County Alabama, which operates with a large proportion of federal funding;

Petitioner declares that not only have His essential Rights been violated, but also federal funds have been used to accomplish the violation; further, these violations are the standard practice of said "Drug Task Force."

Petitioner filed His PETITION FOR WARRANT OF REMOVAL in the District Court of the United States ("DCUS"), Northern Judicial District of Alabama, Middle Division, as is evident on the face of the document. Petitioner has a receipt from a Postal Money Order, serial number 64697148821, issued on January 6, 1997 at United States Post Office "359530." This shows receipt by the Clerk, District Court of the United States [sic], of the sum of one hundred fifty dollars and no cents ($$150.00) in lawful money, from Petitioner, whose ship-to location is in care of 2108 Lookout Street located in Gadsden, Alabama state.

2. The Chief Judge's ORDER is plainly issued from the United States District Court for the Northern District of Alabama, Middle Division. As mentioned supra, Petitioner's VERIFIED PETITION was presented to the District Court of the United States. The former is an Article IV territorial tribunal, with territorial and subject matter jurisdiction tightly constrained by Acts of Congress; the latter is an Article III judicial power Court, with general jurisdiction to hear all matters arising under the Constitution, laws, and treaties of the United States. Petitioner finds the Chief Judge's ORDER of Remand to be ultra vires (without effect) on the instant case.

> Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus.
>
> [U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

3. NOTICE OF INTENT TO SUBMIT FOIA REQUEST

Petitioner hereby places all interested party(s) on formal Notice of Petitioner's intent to submit a proper request under the Freedom of Information Act ("FOIA") for all financial records of the federally funded Drug Task Force of Etowah county, Alabama state. The DCUS is the federal court of original jurisdiction to compel production of documents requested under the FOIA, and to enjoin the improper withholding of said documents, upon exhaustion of requester's administrative remedies. See 5 U.S.C. 552(a)(4)(B).

4. Petitioner argues that the only competent and qualified candidates for temporary assignment to preside on a three-judge panel in this honorable District Court of the United States ("DCUS") are those who now preside upon the United States Court of International Trade, which is expressly an Article III forum, by Act of Congress. See 28 U.S.C. 251(a), to wit:

> The court is a court established under article III of the Constitution of the United States.

5. Petitioner requires a competent and qualified panel of three federal judges to preside on this DCUS, because Citizens of Alabama state are not presently being counted in decisions to

apportion congressional districts: they cannot register to vote; and they also cannot serve on federal grand or petit juries, unless they are willing to sign fraudulent voter registration affidavits and thereby create the presumption that they have opted into Federal citizenship. Confer at "Federal citizenship" in Black's Law Dictionary, Sixth Edition. Petitioner hereby explicitly exercises His fundamental Right of Election to refuse Federal citizenship, because the "United States" [sic] has become a criminal enterprise, as evidenced by the War on Drugs [sic] and its municipal instrumentality, the "Drug Task Force" [sic] of Etowah county, Alabama state. See Alabama voter registration forms; Right of Election; jus soli; jus sanguinis.

6. The authority in Evans [See Evans v. Gore, 253 U.S. 245 (1920), never overturned] is particularly poignant. It is apparent to Petitioner, because of irrefutable historical research, that all sitting Judges of the United States District Court in America are appointed to serve in either an Article I or in an Article IV capacity at the present time. In this capacity, said Judges do not enjoy the explicit immunity which is found in Article III, Section 1 ("3:1") of the Constitution for the United States of America, as lawfully amended, to wit:

> The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour [sic], and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.
>
> [U.S. Constitution, Article III, Section 1]

7. Petitioner submits that one of the major reasons why said Judges do not enjoy the explicit immunity at 3:1 is the doctrine of territorial heterogeneity. Confer in The Federal Zone: Cracking the Code of Internal Revenue, Fourth Edition, previously available on the Internet via the Alta Vista search engine; see also U.S. v. Lopez, 131 L.Ed.2d 626 (1995):

> Each of these [schools] now has an invisible federal zone [sic] extending 1,000 feet beyond the (often irregular) boundaries of the school property.
>
> [Kennedy concurring]

Here, the U.S. Supreme Court utilized the term "federal zone" as a common noun, without any citations or footnotes. The doctrine of territorial heterogeneity, as such, is summarized as follows in the "Conclusions" of The Federal Zone: Cracking the Code of Internal Revenue, to wit:

> In exercising its exclusive authority over the federal zone, Congress is not subject to the same constitutional limitations that exist inside the 50 States. For this reason, the areas that are inside and outside the federal zone are heterogeneous with respect to each other. This difference results in a principle of territorial heterogeneity: the areas within the federal zone are subject to one set of rules; the areas without (or outside) the federal zone are subject to a different set of rules. The Constitution rules outside the zone and inside the 50 States. The Congress rules inside the

zone and outside the 50 States. The 50 States are, therefore, in one general class, because all constitutional restraints upon Congress are in force throughout the 50 States, without prejudice to any one State. The areas within the federal zone are in a different general class, because these same constitutional restraints simply do not limit Congress inside that zone.

[The Federal Zone, electronic Fifth Edition, Conclusions]

8. In the pivotal case of Downes v. Bidwell, 182 U.S. 244 (1901), which is discussed at several places in the book The Federal Zone supra, the U.S. Supreme Court established a doctrine whereby the Constitution of the "United States", as such, does not extend beyond the limits of the states which are united by and under it. This doctrine of territorial heterogeneity is now commonly identified as the "Downes Doctrine."

9. This doctrine has been reinforced by subsequent decisions of the U.S. Supreme Court, notably, the case of Hooven & Allison v. Evatt, 324 U.S. 652 (1945), in which the high Court ruled that the guarantees of the Constitution extend to the federal zone only as Congress has made those guarantees applicable. The United States District Courts ("USDC") are currently established by Congress as territorial (federal zone) courts, with constitutional authority emanating from Article IV, Section 3, Clause 2, to wit:

The Congress shall have Power to dispose of and make all needed Rules and Regulations respecting the Territory or other Property belonging to the United States; ....[U.S. Constitution, Art. 4, Sec. 3, Cl. 2]

10. There is a distinct and definite difference between a "United States District Court" and a "District Court of the United States". The words "District Court of the United States" commonly describe constitutional courts created under Article III of the Constitution, not the legislative courts which have long been the courts of the Territories. See International Longshoremen's & Warehousemen's Union v. Juneau Spruce Corp., 342 U.S. 237 at 241 (1952), 72 S.Ct. 235, 96 L.Ed. 275, 13 Alaska 536.

11. The term "District Court of the United States" commonly describes Article III courts or "courts of the United States", and not legislative courts of the territories. See American Insurance Co. v. 356 Bales of Cotton, 1 Pet. 511 (1828), 7 L.Ed 242; International Longshoremen's and Warehousemen's Union v. Wirtz, 170 F.2d 183 (9th Cir., 1948), cert. den. 336 U.S. 919, 93 L.Ed. 1082, 69 S.Ct. 641, reh. den. 336 U.S. 971, 93 L.Ed 1121, 69 S.Ct. 936.

12. Though the judicial system set up in a territory of the United States is a part of federal jurisdiction, the phrase "court of the United States" when used in a federal statute is generally construed as not referring to "territorial courts." See Balzac v. Porto Rico, 258 U.S. 298 at 312 (1921), 42 S.Ct. 343, 66 L.Ed. 627. In Balzac, the High Court stated:

> The United States District Court is not a true United States court established under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article IV, Section 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court.

13. The distinction within the dual nature of the federal court system is also noted in Title 18 U.S.C. 3241, which states that the United States District Court for the Canal Zone shall have jurisdiction "concurrently with the district courts of the United States, of offenses against the laws of the United States committed upon the high seas."

14. This honorable Court is directed to one of the great masters of U.S. Constitution, Chief Justice John Marshall, writing in the year 1828. Here, Justice Marshall makes a very clear distinction between judicial courts, authorized by Article III, and legislative (territorial) courts, authorized by Article IV. Marshall even utilizes some of the exact wording of Article IV to differentiate those courts from Article III "judicial power" courts, as follows:

> These [territorial] courts then, are not Constitutional courts, in which the judicial power conferred by the Constitution on the general government can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the general rights of sovereignty which exists in the government, or in virtue of that clause which enables Congress to make all needful rules and regulations, respecting the territory belonging to the United States. The jurisdiction with which they are invested, is not a part of that judicial power which is defined in the 3d article of the Constitution, but is conferred by Congress, in the execution of those general powers which that body possesses over the territories of the United States. Although admiralty jurisdiction can be exercised in the States in those courts only which are established in pursuance of the 3d article of the Constitution, the same limitation does not extend to the territories. In legislating for them, Congress exercises the combined powers of the general and of the State government.
>
> [American Insurance Co. v. 356 Bales of Cotton], [1 Pet. 511 (1828)]

Other supporting authorities now follow, to wit:

> Constitutional provision against diminution of compensation of federal judges was designed to secure independence of judiciary.

[O'Donoghue v. U.S., 289 U.S. 516 (1933)], [headnote 2. Judges]

The term "District Courts of the United States," as used in Criminal Appeals Rules, without an addition expressing a wider connotation, had its historic significance and described courts created under article 3 of Constitution, and did not include territorial courts.

[Mookini et al. v. U.S., 303 U.S. 201], [headnote 2. Courts]

Where statute authorized Supreme Court to prescribe Criminal Appeals Rules in District Courts of the United States including named territorial courts, omission in rules when drafted of reference to District Court of Hawaii, and certain other of the named courts, indicated that Criminal Appeals Rules were not to apply to those [latter] courts.

[Mookini et al. v. U.S., 303 U.S. 201], [headnote 4. Courts]

15. The following paragraph from Mookini is extraordinary for several reasons: (1) it refers to the "historic and proper sense" of the term "District Courts of the United States", (2) it makes a key distinction between such courts and application of their rules to territorial courts; (3) the application of the maxim inclusio unius est exclusio alterius is obvious here, namely, the omission of territorial courts clearly shows that they were intended to be omitted:

Not only did the promulgating order use the term District Courts of the United States in its historic and proper sense, but the omission of provisions for the application of the rules to the territorial courts and other courts mentioned in the authorizing act clearly shows the limitation that was intended.

[Mookini et al. v. U.S., 303 U.S. 201]

The words "district court of the United States" commonly describe constitutional courts created under Article III of the Constitution, not the legislative courts which have long been the courts of the Territories.

[Int'l Longshoremen's and Warehousemen's Union et al. v. Juneau Spruce Corp., 342 U.S. 237 (1952)]

The phrase "court of the United States", without more, means solely courts created by Congress under Article III of the Constitution and not territorial courts.

[Int'l Longshoremen's and Warehousemen's Union et al.

v. Wirtz, 170 F.2d 183 (9th Cir. 1948), headnote 1]

United States District Courts have only such jurisdiction as is conferred by an Act of Congress under the Constitution. U.S.C.A. Const. art. 3, sec. 2; 28 U.S.C.A. 1344]

[Hubbard v. Ammerman, 465 F.2d 1169 (5th Cir., 1972), headnote 2. Courts]

The United States district courts are not courts of general jurisdiction. They have no jurisdiction except as prescribed by Congress pursuant to Article III of the Constitution. [many cites omitted]

[Graves v. Snead, 541 F.2d 159 (6th Cir. 1976)]

Jurisdiction of court may be challenged at any stage of the proceeding, and also may be challenged after conviction and execution of judgment by way of writ of habeas corpus.

[U.S. v. Anderson, 60 F.Supp. 649 (D.C.Wash. 1945)]

The United States District Court has only such jurisdiction as Congress confers.

[Eastern Metals Corp. v. Martin], [191 F.Supp 245 (D.C.N.Y. 1960)]

16. Lastly, Petitioner hereby notoriously objects, permanently for the record, to the evident practice of the Clerk of Court of using a rubber stamp with the nomenclature "U.S. District Court," when this honorable Court is the District Court of the United States [sic] as a matter of law.

17. RELATED CASES AND INCORPORATION OF RELATED PLEADINGS

Pursuant to the Full Faith and Credit Clause, Petitioner hereby provides formal Notice to all interested party(s), and demands mandatory judicial notice, pursuant to Rules 201(d), 301 and 302 of the Federal Rules of Evidence, of the following related cases, in which the below mentioned pleadings have already been served on all party(s) to those cases (if not actually filed, or lodged, in said cases) respectively:

(1) Looker v. United States et al, DCUS West Virginia, Northern Judicial District, Case Numbers #5:96-CR-40, #1:96-CR-41, #1:96-CR-42, and #1:96-CR-43, REBUTTAL TO RESPONSE OF UNITED STATES TO PLAINTIFF'S MOTION TO STAY PROCEEDINGS UNTIL FINAL REVIEW OF CHALLENGE TO THE CONSTITUTIONALITY OF JURY SELECTION AND SERVICE ACT: 28 U.S.C. 1861 et seq., which is incorporated by reference as if set forth fully herein;

(2) People of the United States of America ex relatione Paul Andrew Mitchell v. United States et al., DCUS Montana,

Billings Division, Case Number #CV-96-163-BLG; see attached copy of NOTICE OF REFUSAL FOR CAUSE [cites omitted] which is incorporated by reference as if set forth fully herein;

(3) In re: Paul Andrew Mitchell Freedom of Information Act Request, USDC Montana, Helena Division, Case Number #MCV-96-50-H-CCL; see attached copy of NOTICE OF REFUSAL FOR CAUSE [cites omitted] which is also incorporated by reference as if set forth fully herein.

For the convenience of this honorable Court, Petitioner attaches said pleadings hereto as Exhibits. Due to logistical problems, Petitioner hereby informs this honorable Court that said Exhibits are expected to arrive under separate cover, transmitted to the Clerk of Court via Priority U.S. Mail by Petitioner's Counsel of choice, Paul Andrew, Mitchell, B.A., M.S.

SUMMARY

Petitioner is entitled to a response to His Petition from a competent and qualified District Court of the United States [sic], said Court to consider Petitioner's proper petition for warrant of removal. Chief Judge Hancock is a judge of the United States District Court, said Court having been demonstrated to differ from the District Court of the United States. Further, he is not qualified to sit on a proper District Court of the United States, because his judicial compensation is currently being diminished by federal income taxes, in violation of Article III, Section 1, of the U.S. Constitution, and in violation of the pivotal holding in Evans v. Gore, which requires competent and qualified federal judges, whose compensation(s) are not currently being diminished by federal income taxes, for the District Court of the United States. See Evans v. Gore, 253 U.S. 245 (1920) (never overturned).

VERIFICATION

I, William Michael, Kemp, Sui Juris, hereby declare, under penalty of perjury, under the laws of the United States of America, without the "United States", and under knowledge of the law forbidding false witness before God and men, attest and affirm that I have read the foregoing and know the contents thereof, and that the same is true of My own knowledge, except those matters herein alleged on information and belief, and as to those matters, I believe them to be true, so help Me God, pursuant to 28 U.S.C. 1746(1).

Dated: January 14, 1997

Respectfully submitted,

/s/ Mike Kemp

_____

William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least eighteen years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE OF REFUSAL FOR CAUSE
OF ORDER REMANDING THIS ACTION
TO THE CIRCUIT COURT
FOR ETOWAH COUNTY
Rules 201(d), 301, and 302 of the Federal Rules of Evidence,
Rule 9(b) of the Federal Rules of Civil Procedure

by placing one true and correct copy of said document(s) in first class United States mail, with postage prepaid and properly addressed to the following:

Clerk of Court
Alabama Court of Criminal Appeals
c/o P.O. Box 301555
Montgomery, Alabama state

Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

James E. Hedgspeth, Jr.
Etowah County Offices
c/o 800 Forrest Avenue
Gadsden, Alabama state

Clerk of Court
District Court of the U.S. [sic]
c/o 1729 Fifth Avenue North
Birmingham, Alabama state

Clerk of Court
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden, Alabama state

Attorney General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

Executed on January 14, 1997

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

# # #

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Alabama v. Kemp

William Michael, Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
non-domestic zip code exempt

In Propria Persona

DISTRICT COURT OF THE UNITED STATES

NORTHERN JUDICIAL DISTRICT OF ALABAMA

MIDDLE DIVISION

STATE OF ALABAMA [sic]	)	Case No. #CV-97-H-0022-M
	)	
Plaintiff [sic]	)	16th Cir. Case #CC-95-1083-DWS
	)	
v.	)	NOTICE OF REFUSAL FOR CAUSE:
	)	Rules 201(d), 301, and 302,
WILLIAM MICHAEL KEMP [sic],	)	Federal Rules of Evidence;
	)	Rule 9(b), Federal Rules
Defendant [sic]	)	of Civil Procedure ("FRCP")
_____	)	

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled action (hereinafter "Defendant"), to provide formal Notice to all interested party(s), and to demand mandatory judicial notice by this honorable Court, pursuant to Rules 201(d), 301, and 302 of the Federal Rules of Evidence, of this, Defendant's formal Refusal, pursuant to FRCP Rule 9(b), of the alleged ORDER of the honorable James H. Hancock, Senior United States District Judge, issued erroneously and filed erroneously in the instant case on January 17, 1997.

Defendant refuses said ORDER for fraud, as has already been amply demonstrated in Defendant's previously submitted NOTICE OF

REFUSAL FOR CAUSE OF ORDER REMANDING THIS ACTION TO THE CIRCUIT COURT OF ETOWAH COUNTY, for all of the same reasons as stated therein. Specifically, Defendant hereby makes a permanent, standing objection to any and all decisions, actions, orders, practices, policies, rules, statutes, regulations, procedures, and customs which are associated in any way with the United States District Court ("USDC"), as was true of the ORDER signed by Judge Hancock on January 17, 1997. The USDC has no jurisdiction whatsoever over the instant case, even though Judge Hancock may be authorized to preside over the USDC for Article IV matters. Orders issued from courts which have no jurisdiction are null and void ab initio.

Defendant does wish to address an important footnote which is found in said ORDER. In said footnote, Judge Hancock wrote the following:

> Two of the assertions made by Kemp are of particular interest to the Court. Initially, Kemp continually refers to the undersigned as "Chief Judge." The undersigned is not happy with this promotion, and hopes he does not receive word of it through official channels.
>
> In addition, although a promotion (as viewed by some) would be largess enough, Kemp raises another point that promises possible pecuniary benefits for the undersigned. Kemp takes the position that Article III judges are exempt from the federal income tax because, as Kemp correctly points out, Art. III, Sec. 1 of the U.S. Constitution protects judges' salaries from being reduced during their tenure. Kemp argues that the undersigned's payment of taxes is evidence that the undersigned is not an Article III judge, and is therefore unqualified to hear this case. The undersigned is certainly an Article III judge, but would be positively thrilled to learn from some authoritative source that he is exempt from federal taxes.
>
> [ORDER dated September 17, 1997 by James H. Hancock]
> [Senior United States District Judge, Birmingham]

Defendant hereby wishes to apologize to Judge Hancock for the obvious clerical error in Defendant's previous pleadings, wherein Judge Hancock was incorrectly identified as the "Chief

Judge," instead of Senior Judge. For the record, Defendant hereby makes a permanent correction, nunc pro tunc to the date on which the instant case was first filed in the District Court of the United States ("DCUS").

More importantly, Judge Hancock goes on to discuss Article III of the Constitution for the United States of America, as lawfully amended ("U.S. Constitution"). By way of further elaboration of the important, even crucial, matters which arise out of Article III in the instant case, Defendant respectfully requests mandatory judicial notice, pursuant to Rule 201(d) of the Federal Rules of Evidence, of the attached letter dated January 22, 1997, from Mr. Paul Andrew Mitchell, B.A., M.S., Defendant's Counsel of choice in the instant case, to the Disclosure Officer, Administrative Office of the U.S. Courts, One Columbus Circle, N.E., Washington, D.C. This letter is incorporated here by reference as if set forth fully herein.

Until such time as competent, certified evidence is forthcoming from the Administrative Office of the United States Courts, particularly from the Chief, Judges Compensation and Benefits Branch, Article III Judges Division, which office is currently occupied by one Carol S. Sefren, that Judge Hancock is, indeed, an Article III judge, as alleged in the ORDER of January 17, 1997, Defendant expressly reserves His fundamental Right to rebut said presumption for assuming facts which are not in evidence.

On the contrary, the USDC is an Article IV court, with constitutional authority originating in Article IV of the U.S. Constitution. Defendant submits that federal judges who preside in the USDC are Article IV judges, not Article III judges. Furthermore, Defendant argues that Article III judges cannot

preside over Article IV courts, without prior authorization; likewise, Defendant argues that Article IV judges cannot preside over Article III courts, without prior authorization.

Judge Hancock belies his claim to being an Article III judge by effectively admitting that his judicial compensation is currently being diminished by federal income taxes. Judge Hancock is also keenly aware that Article III, Section 1, of the U.S. Constitution protects judges' salaries from being reduced during their tenure.

It is not clear to Defendant, however, that Judge Hancock has actually reviewed and completely understood the key case of Evans v. Gore, 253 U.S. 245 (1920), which is controlling in the instant case in part because it has never been overturned, and primarily because it held that the compensation of federal judges cannot be diminished by federal income taxes, notwithstanding the so-called 16th amendment. At that time, the high Court presumed that said "amendment" had been properly and lawfully ratified, because said Court had not yet been presented with evidence proving that the ratification had failed.

Defendant also argues that the case of Lord v. Kelley, 240 F.Supp. 167, 169 (1965), is likewise important for the admission made therein that federal judges are subject to the undue influence of the "Internal Revenue Service" [sic].

By connecting these two points in time -- 1920 and 1965 -- Defendant submits to this honorable Court the proposition that the quality of judicial decisions has deteriorated measurably in the intervening years. Moreover, between 1965 and today (1997), the quality of judicial decisions as deteriorated even further, so much so, that the reputation of the federal judiciary is now at an all-time historical low.

Defendant submits that one of the major reasons for this deterioration is the fraud which Congress has perpetrated upon all federal judges by imposing federal income taxes upon their judicial compensation, in blatant violation of Article III, Section 1, and in blatant violation of the holding in Evans, and by manipulating the identities of the various federal district courts so as to extend the jurisdiction of the USDC, unlawfully, into the state zone and into the subject matters over which the USDC has no jurisdiction whatsoever. See 18 U.S.C. 3231; 28 U.S.C. 1441 et seq.

Article III, Section 1, has never been amended or repealed. Repeals by implication are not favored. The so-called 16th amendment [sic] did not repeal Article III, Section 1, even if it had been lawfully ratified; it was not. See People v. Boxer, California Supreme Court case #S-030016, December 1992; respondent Boxer fell totally silent, activating estoppel.

Defendant submits that further evidence of the Congressional fraud upon all federal judges is to be found in the common practice of the Administrative Office of the United States Courts in Washington, D.C., to prepare and mail written communications on office stationery which bears the heading "Article III Judges Division" [sic]. Defendant submits that the existence of such a Division proves that Congress is well aware of Article III, and yet all federal judges currently preside over the USDC, which is an Article IV forum, and all federal judges currently pay federal income taxes on their judicial compensation, in violation of Article III, and in violation of Evans supra.

Plaintiff argues that no federal judge can be an Article III judge, if the judicial compensation of that federal judge is currently being diminished by federal income taxes. This is the

case because the taxation of judicial compensation is conclusive evidence of a dependent and biased judiciary. This bias and dependence were openly and notoriously documented, for all the world to see, in the case of Lord v. Kelley supra.

Defendant hereby asserts a fundamental Right to enjoy an independent and unbiased judiciary, exercising lawful authority in courts of competent jurisdiction over all matters arising under the Constitution, laws, and treaties of the United States. The DCUS is such a court, and payment of federal income taxes upon his compensation is conclusive proof that Judge Hancock cannot preside upon this honorable DCUS.

Until such time as the Chief Justice of the Supreme Court of the United States shall certify that Judge Hancock has either voluntarily rescinded his W-4 Employee's Withholding Allowance Certificate, or has been ordered to do so by one or more of his judicial superiors, if only for the duration of the instant case, Judge Hancock is deemed unqualified to preside over said case, notwithstanding his unsupported allegation that he is presently an Article III judge, primarily because Judge Hancock's judicial compensation is currently being diminished by federal income taxes, in violation of Article III, Section 1, and Evans v. Gore (never overturned).

To this end, Defendant wishes to remind this honorable Court of Defendant's NOTICE AND DEMAND FOR TEMPORARY ASSIGNMENT OF 3 JUDGES FROM THE U.S. COURT OF INTERNATIONAL TRADE TO PRESIDE OVER THIS DCUS, which has been served on all interested party(s).

Although a single Article III judge is authorized by Congress to handle case preliminaries, Defendant reserves his right to convene a 3-judge panel here, in order to adjudicate Defendant's claims:

(1) that the apportionment of congressional districts is skewed, and thereby unconstitutional, for failing to count Citizens of Alabama state who are not also citizens of the United States ("federal citizens"); and,

(2) that the federal Jury Selection and Service Act ("JSSA") is unconstitutional for exhibiting prohibited class discrimination against Citizens of Alabama state who are not also federal citizens.

Defendant needs a competent and qualified Article III judge to issue a valid warrant of removal of the instant case from the Circuit Court of Etowah County into this honorable DCUS, whereupon Defendant seeks an immediate and indefinite stay of the instant proceedings, pending final review of his challenge, as previously filed in the instant case, to the constitutionality of the JSSA. See Defendant's MOTION TO STAY PROCEEDINGS.

INCORPORATION OF MEMORANDUM
OF POINTS AND AUTHORITIES

Defendant hereby incorporates by reference, as if set forth fully herein, the attached MEMORANDUM OF POINTS AND AUTHORITIES PROVING THE VOLUNTARY NATURE OF FEDERAL INCOME TAXES. If his footnote is any indication, Judge Hancock will be positively thrilled to learn from these authoritative sources that he is exempt from federal taxes, as least as far as federal taxation of his judicial compensation is concerned.

SUMMARY

Defendant is entitled to a response to His Petition for Warrant of Removal from a competent and qualified District Court of the United States ("DCUS"), said DCUS to consider Defendant's proper petition for warrant of removal from the Circuit Court of Etowah County. James H. Hancock, Senior United States District Judge, is a judge of the United States District Court ("USDC"), said USDC having been demonstrated to differ from the DCUS in

name, in territorial jurisdiction, and in subject matter jurisdiction.

Furthermore, Judge Hancock is not qualified to sit on a proper DCUS, because his judicial compensation is currently being diminished by federal income taxes, in violation of Article III, Section 1, of the U.S. Constitution, and in violation of the pivotal holding in Evans v. Gore supra, which requires competent, qualified, independent and unbiased federal judges whose compensation(s) are not currently being diminished by federal income taxes, for the DCUS.

VERIFICATION

I, William Michael, Kemp, Sui Juris, hereby declare, under penalty of perjury, under the laws of the United States of America, without the "United States", and under knowledge of the law forbidding false witness before God and men, attest and affirm that I have read the foregoing and know the contents thereof, and that the same is true of My own knowledge, except those matters herein alleged on information and belief, and as to those matters, I believe them to be true, so help Me God, pursuant to 28 U.S.C. 1746(1).

Executed on January 24, 1997:

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

PROOF OF SERVICE

I, William Michael, Kemp, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of

America, without the "United States", that I am at least eighteen years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

NOTICE OF REFUSAL FOR CAUSE:
Rules 201(d), 301, and 302, Federal Rules of Evidence,
Rule 9(b), Federal Rules of Civil Procedure

by placing one true and correct copy of said document(s) in first class United States mail, with postage prepaid and properly addressed to the following:

Solicitor General Department of Justice 10th and Constitution, N.W. Washington, D.C.	William H. Rehnquist, C.J. Supreme Court of U.S. 1 First Street, N.E. Washington, D.C.
James E. Hedgspeth, Jr. Etowah County Offices c/o 800 Forrest Avenue Gadsden, Alabama state	Clerk of Court District Court of the U.S. [sic] c/o 1729 Fifth Avenue North Birmingham, Alabama state
Clerk of Court Circuit Court of Etowah County c/o 800 Forrest Avenue Gadsden, Alabama state	Attorney General Department of Justice 10th and Constitution, N.W. Washington, D.C.
Clerk of Court Court of Criminal Appeals c/o P.O. Box 301555 Montgomery, Alabama state	Chief Judge 11th Circuit Court of Appeals c/o 56 Forsyth Street, N.W. Atlanta, Georgia state

Executed on January 24, 1997:

/s/ Mike Kemp
_____
William Michael, Kemp, Sui Juris
Citizen of Alabama state
(expressly not a federal citizen)

c/o 2509 N. Campbell, #1776
Tucson [zip code exempt]
ARIZONA STATE

January 22, 1997

Disclosure Officer
Administrative Office of the U.S. Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.

Washington, D.C.

Subject: Hon. James H. Hancock

Dear Disclosure Officer:

Please provide Us, as soon as possible, with a certified copy of the credentials of one James H. Hancock, employed as a federal district judge in the United States District Court ("USDC") for the Northern District of Alabama, Middle Division.

Judge Hancock alleges that he is currently an Article III judge [sic], but he is also paying federal income taxes on his judicial compensation, in violation of Article III, Section 1, in the U.S. Constitution, which has never been repealed or amended. In a recent ORDER issued from the wrong court, Judge Hancock stated that he would be positively thrilled to learn from some authoritative source that he is exempt from federal taxes. Evidently, Judge Hancock does not consider the U.S. Constitution to be an "authoritative source"; I do hope I have not drawn the wrong inference from his ORDER.

We refer you (and Judge Hancock) to the decision of the Supreme Court of the United States in Evans v. Gore, 253 U.S. 245 (1920), which held that judicial immunity from diminution of their compensation must be sustained, notwithstanding the so-called 16th amendment [sic]. Our research informs Us that this decision has never been formally overturned, notwithstanding allegations to the contrary which have been published in the UCLA Law Review.

During calendar 1996, I did witness a copy of stationery from the "Article III Judges Division" [sic] of your offices, which had been transmitted through the United States Mail to Me from Carol S. Sefren, Chief, Judges Compensation and Benefits Branch, Article III Judges Division (see attached response).

Can it be that your office continues to misinform federal judges that they are authorized under Article III, even though those very same judges are paying federal income taxes on their judicial compensation, in violation of Article III, Section 1, and in violation of the standing decision in Evans v. Gore, and even though all federal district judges currently preside over the USDC, and not over the District Court of the United States ("DCUS")? See Balzac v. Porto Rico, 258 U.S. 298, 312 (1921). Such misinformation could be construed as mail fraud.

If this is the case, permit Us respectfully to request that you cease and desist this practice at once, because it is misleading, not only for all the judges on your payroll, but also for the public at large whom those judges were appointed to serve, with integrity and without undue influence, and upon whom the public at large depend for independent and unbiased opinions. See also Lord v. Kelley, 240 F.Supp. 167, 169 (1965), to appreciate how far our judiciary has deteriorated since the decision in Evans.

Please respond as quickly as possible. Until We receive your certified response, important litigation must be put on hold.

Thank you very much for your consideration.

Sincerely yours,

/s/ Paul Andrew Mitchell

Paul Andrew, Mitchell, B.A., M.S.
Citizen of Arizona state and federal witness

email: supremelawfirm@altavista.net

website: http://supremelaw.com

copy: James H. Hancock, Senior United States District Judge
William H. Rehnquist, C.J., U.S. Supreme Court
parties listed in PROOF OF SERVICE, State v. Kemp
litigation files

# # #

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c/o General Delivery
Gadsden [zip code exempt]
ALABAMA STATE

March 17, 1997

FREEDOM OF INFORMATION ACT REQUEST

Disclosure Officer
Drug Enforcement Administration
[street location]
Washington [zip code exempt]
DISTRICT OF COLUMBIA

Dear Disclosure Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. 552 et seq., and regulations thereunder. Please provide first an estimate of the cost to answer this request, if the cost should exceed $25.

If some of this request is exempt from release, please furnish Me with those portions reasonably segregable. I am requiring certified copies of the documents requested, in lieu of personal inspection of same.

Certified ocuments requested:

1. All financial records for the past ten (10) years of United States (federal government) financial assistance to the Etowah County Drug Task Force, Etowah County, Alabama state, inclusive of all cash payments to employees of the State of Alabama, in whatever office or capacity they were employed.

The requested records are not exempt from disclosure because they:

(A) could not reasonably be expected to interfere with law enforcement proceedings;

(B) would not deprive a person of a right to a fair trial or an impartial adjudication;

(C) could not reasonably be expected to constitute an unwarranted invasion of personal property;

(D) could not reasonably be expected to disclose the identity of a confidential source;

(E) would not disclose techniques and procedures for law enforcement investigations or prosecutions, and would not disclose guidelines for law enforcement investigations or prosecutions;

(F) could not reasonably be expected to endanger the life or physical safety of any individual.

[see Exemption 7 in FOIA]

Under the common law, and under commercial law, we are all equal before the law. This maxim is fundamental.

If you are not the correct person to whom this Freedom of Information Act Request should be directed, kindly forward it to the correct person.

Time is of the essence. If you have any questions about your rights and obligations under 5 U.S.C. 552, may we recommend that you contact the office of the Attorney General, or the Solicitor General, in Washington, D.C., for immediate assistance.

Thank you very much for your consideration, and for your timely obedience to the controlling laws in this matter, specifically the Freedom of Information Act and the Constitution for the United States of America, as lawfully amended.

Respectfully submitted,

/s/ Mike Kemp

William Michael Kemp, Sui Juris
Citizen of Alabama state

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[D R A F T]

MEMO

TO: Honorable Roy Moore, Judge
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden, Alabama state

FROM: Paul Andrew, Mitchell, B.A., M.S.
Counselor at Law

DATE: March 20, 1997

SUBJECT: State of Alabama v. William Michael Kemp,
16th Cir. case number #CC-95-1083

Dear Judge Moore,

This is a courtesy notice to inform you of Our intent to petition your court for an Extraordinary Writ of Habeas Corpus in the matter described above.

We are presently putting the final touches on Our papers, and We should have the Petition filed and officially before you no later than 5:00 p.m. tomorrow, Friday, March 21, 1997.

Please give said Petition your careful and consideration attention.

Thank you very much for your assistance.

Sincerely yours,

_____

Paul Andrew, Mitchell, B.A., M.S.
Counselor at Law and federal witness
c/o 2509 N. Campbell Avenue, #1776
Tucson, Arizona state
Postal Zone 85719/tdc

email: supremelawfirm@altavista.net

website: http://supremelaw.com

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MEMO

TO: Honorable Roy Moore, Judge
Circuit Court of Etowah County
c/o 800 Forrest Avenue
Gadsden, Alabama state
Postal Zone 35904/tdc

FROM: Paul Andrew, Mitchell, B.A., M.S.
Counselor at Law

DATE: March 22, 1997

SUBJECT: State of Alabama v. William Michael Kemp,
16th Cir. case number #CC-95-1083

Dear Judge Moore,

Enclosed please find the laser-printed originals of William Michael Kemp's Application for Extraordinary Writ of Habeas Corpus in the above entitled case.

We experienced major logistical barriers to delivering these pleadings to you today, so I have taken the liberty of sending them to you via U.S. Mail.

Please choose between unsigned originals, and/or a set which I have marked in blue ink with the nomenclature "(on facsimile)".

Thank you very much for your consideration.

Sincerely yours,

/s/ Paul Andrew Mitchell

Paul Andrew, Mitchell, B.A., M.S.
Counselor at Law and federal witness
c/o 2509 N. Campbell Avenue, #1776
Tucson, Arizona state
Postal Zone 85719/tdc

email: supremelawfirm@altavista.net

website: http://supremelaw.com

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Alabama v. Kemp

William Michael Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona

Under Protest, Necessity,
and by Special Visitation

CIRCUIT COURT OF ETOWAH COUNTY

ALABAMA STATE

Ex Parte	)	Case No. #CC-95-1083
	)	REQUEST FOR LEAVE TO FILE
William Michael Kemp	)	APPLICATION FOR EXTRAORDINARY
	)	WRIT OF HABEAS CORPUS:
_____	)	Alabama Statute 15-21-8

To the Honorable Judge of this Court:

REQUEST FOR LEAVE TO FILE APPLICATION
FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

COMES NOW Richard Hamilton Hayward, Relator, hereafter Relator, lodging this request for leave of this Court to file an Application for the EXTRAORDINARY WRIT OF HABEAS CORPUS intending to determine the propriety of the present restraint upon the liberty of, and to secure the release of, your Applicant, William Michael Kemp, who is presently restrained of His liberty as the result of Applicant's having been released from actual custody, into constructive custody, as result of the issuance of a "BOND" on or about the 12th day of December, 1996, on the authority of Circuit Judge Donald W. Stewart of Circuit Court of Etowah County Alabama.

Relator will show that the Applicant is entitled to Habeas Corpus relief pursuant to the expressed language of the statutes

of Alabama state, that the authority on which your Applicant is presently restrained lacks the requisite jurisdiction, that the present restraint does violence to justice, and that the Writ should issue predicated on satisfying the expressed threshold requirements of the statutes of Alabama state, as are set forth in full, and in detail, in the attached Application.

JURISDICTION

1. As jurisdictional authority for this application for the Extraordinary Writ of Habeas Corpus to be signed, filed and presented by Relator, Relator relies on Alabama Statute 15-21-1, which states as follows:

> 15-21-1. Persons entitled to prosecute writ: Generally.
>
> Any person who is imprisoned or restrained of his liberty in the state of Alabama on any criminal charge or accusation or under any other pretense whatever may prosecute a writ of habeas corpus according to the provisions of this chapter to inquire into the cause of such imprisonment or restraint.

2. Further, Relator seeks hereby to file and present this petition to this Honorable Court pursuant to the expressed authority of Alabama Statute 15-21-4 which, in pertinent part, states as follows:

> Application for a writ of habeas corpus must be made by petition, signed either by the party himself for whose benefit it is intended or by some other person on his behalf ...."

Wherefore, premises considered, Richard Hamilton Hayward, Relator, respectfully requests that this Court grant to Relator leave of this Court to file the Application for Extraordinary Writ of Habeas Corpus respecting the present restraint upon the liberty of William Michael Kemp, so that the Great Writ may be promptly heard as to the propriety of restraint upon the liberty of William Michael Kemp and to secure His liberty in a manner consistent with the ends of justice.

Executed on: _____

Respectfully submitted,

/s/ Richard Hayward

Richard Hamilton Hayward
Relator

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William Michael Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona

Under Protest, Necessity,
and by Special Visitation

CIRCUIT COURT OF ETOWAH COUNTY

ALABAMA STATE

Ex Parte	)	Case No. #CC-95-1083
	)	
William Michael Kemp	)	ORDER GRANTING LEAVE
	)	
_____	)	

O R D E R

NOW PENDING before this Court is the request of Relator, Richard Hamilton Hayward, for leave to file an Application for the Extraordinary Writ of Habeas Corpus with respect to Applicant, William Michael Kemp, and, after due consideration of the request and in light of the expressed authority of Alabama Statute 15-21-4, this Court is of the opinion that the request is well taken and it is:

ORDERED, ADJUDGED and DECREED that Relator, Richard Hamilton Hayward, is hereby granted leave of this Court to file and proceed on the Application for the Extraordinary Writ of Habeas Corpus respecting the Applicant, William Michael Kemp, as requested in the underlying Request for Leave to File, pursuant to the expressed authority of Alabama Statute 15-21-4.

Entered on this the ____ day of March, 1997, at Etowah County,

Alabama state.

_____
Judge, Circuit Court of Etowah County, Alabama state

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Alabama v. Kemp

William Michael Kemp, Sui Juris
c/o 2108 General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona

Under Protest, Necessity,
and by Special Visitation

CIRCUIT COURT OF ETOWAH COUNTY

ALABAMA STATE

Ex Parte	)	Case No. #CC-95-1083
	)	
William Michael Kemp	)	APPLICATION FOR EXTRAORDINARY
	)	WRIT OF HABEAS CORPUS:
_____	)	Alabama Statute 15-21-8

To the Honorable Judge of this Court:

APPLICATION FOR
THE EXTRAORDINARY WRIT OF HABEAS CORPUS

COMES NOW Richard Hamilton Hayward, Relator, and files this His APPLICATION FOR THE EXTRAORDINARY WRIT OF HABEAS CORPUS on behalf of William Michael Kemp, Citizen of Alabama state (hereinafter "Applicant") and here proceeds to secure the release of your Applicant, who is presently restrained of His liberty as the result of the issuance of a BOND, a true copy of which is attached and marked "Exhibit A", the same having been issued on or about September 8, 1995, on authority of Judge William W. Cardwell of Circuit Court of Etowah County Alabama. Applicant will show that your Applicant is entitled to Habeas Corpus relief, and that the Judgment of the underlying Circuit Court, as is further delineated hereinbelow, is void for want of jurisdiction and is otherwise tainted, as is further set forth in detail and at length hereinbelow, as follows:

I.

JURISDICTION

1. As jurisdictional authority for this Application for the Extraordinary Writ of Habeas Corpus, your Applicant relies upon the Constitution and laws of, and for, the United States of America, and especially the federal Bill of Rights; the Constitution and laws of, and for, Alabama state, especially the Bill of Rights as stated therein; the ancient Common Law respecting Writs of Habeas Corpus; the Alabama Statutes and Code of Criminal Procedure respecting Habeas Corpus, Alabama Statutes 15-21-1 thru 15-21-34, including, but not limited to, lawful provisions respecting your Applicant's Right to the effective assistance of Counsel. See Sixth Amendment, in particular.

2. Collectively, these fundamental Constitutional, Common and statutory laws are binding on this Court and, inter alia, provide that:

> 15-21-1. Persons entitled to prosecute writ: Generally.
>
> Any person who is imprisoned or restrained of his liberty in the state of Alabama on any criminal charge or accusation or under any other pretense whatever may prosecute a writ of habeas corpus according to the provisions of this chapter to inquire into the cause of such imprisonment or restraint.

II.

APPLICANT IS RESTRAINED OF HIS LIBERTY AND IS "IN CUSTODY."

3. Your Applicant is presently restrained of His liberty by virtue of His being released from actual custody arising from His arrest on September 8, 1995, pursuant to a bond as stated above.

4. Applicant's release from actual custody of the Sheriff, pursuant to the terms of the bond, continues from the day of His arrest to the present. For a copy of the bond, see Exhibit A.

5. For purposes of the Extraordinary Writ of Habeas Corpus, your Applicant is constructively "in custody," as distinguished from being in actual custody, and is therefore entitled to judicial review as to the propriety of the present restraint, via the Great Writ.

6. The United States Supreme Court has ruled that a release on a recognizance bond constitutes custody. Quoting from Hensley v. Municipal Court, 411 U.S. 345, 36 L.Ed.2d 294, 93 S.Ct. 1571, the United States Supreme Court has stated that, for purposes of the Writ of Habeas Corpus, the defendant was "in custody," although he had been released on his own recognizance.

7. The Hensley court, quoting from Jones v. Cunningham, 371 U.S. 236, 9 L.Ed.2d 285, 83 S.Ct. 373, 92 ALR 2d 675, at page 240, observed that the defendant is subject to restraints "not shared by the public generally ...."

III.

RELATOR AUTHORIZED TO PETITION FOR RELIEF

8. Richard Hamilton Hayward, Relator, has signed the instant Application and contemplates lodging the same with the Clerk of this Court, in the belief that this Court will grant Relator's previously filed Request for Leave to File this Application. Further, Applicant seeks hereby to file and present this Application to this Honorable Court, pursuant to the authority of Alabama Statute 15-21-4, to wit:

> "Application for a writ of habeas corpus must be made by petition, signed either by the party himself for whose benefit it is intended or by some other person on his behalf ...."

IV.

RELATOR'S REQUEST FOR CONSIDERATION

9. Relator requests the consideration of this Court as to

Applicant proceeding *In Propria Persona*, without the aid of licensed counsel, pursuant to the rule of law established in Hughes v. Rowe, 449 U.S. 5, 9; 101 S.Ct. 173, 176 (1980).

V.

BACKGROUND

10. A review of the known relevant facts respecting this application for the Extraordinary Writ of Habeas Corpus are as follows:

a. On September 8, 1995, at approximately 2:00 p.m., your Applicant was confronted by uniformed officers who appeared at Applicant's residence; Applicant was arrested and taken into custody; and officers then entered, and then began to search, Applicant's residence; and,

b. The search apparently produced items which were seized and taken by officers from the scene; there was no evidence of a search warrant or inventory of items seized which was left at the residence by officers; and,

c. On September 8, 1995, a search warrant was obtained at approximately 3:00 p.m.; and,

d. Applicant made bail and was released from custody on September 8, 1995; and,

e. On or about September 11, 1995, Applicant appeared at the Sheriff's office and there obtained: (1) the search warrant, writ portion only together with the affidavit of Judge William Cardwell; (2) Police Report; and (3) arrest warrant which was absent any evidence of an affidavit in support; and,

f. A proceeding of some undetermined description was held in September of 1995 before a District Judge in which the Judge apparently ruled in favor of "probable cause"; and,

g. Applicant was arraigned by the Judge's entering a plea of "Not Guilty" for Him; and,

h. On November 11, 1996, a jury trial was held before Circuit Judge Donald W. Stewart, resulting in the conviction of Applicant of the lesser included offense of simple possession of a controlled substance; and,

i. On November 25, 1996, after being convicted by a trial on the merits, Applicant was sentenced to twelve (12) months in the Etowah County Jail and fined $1,000.00, plus costs of court; and,

j. On November 25, 1996, Applicant caused to be filed with the

Alabama Court of Criminal Appeals His Petition for Writ of Mandamus, and the same was denied by that court on December 2, 1996; and,

k. On December 5, 1996, Applicant caused to be filed with the Circuit Court His post-judgment Motion to Set Aside the jury verdict, and the same was set for hearing on January 7, 1997; and,

l. On January 6, 1997, Applicant filed His Petition seeking removal of the State action to the District Court of the United States; and,

m. On January 10, 1997, by ORDER of the United States District Court [sic], Applicant's Petition for Removal was denied and the case was remanded to the Alabama Circuit Court; and,

n. As of this date, no hearing has been held or re-scheduled on Applicant's post-trial Motion to Set Aside.

VI.

APPLICATION FOR THE EXTRAORDINARY WRIT OF HABEAS CORPUS

11. Richard Hamilton Hayward, Relator, on this Application for the Extraordinary Writ of Habeas Corpus, requests of this Honorable Court that this Application be in all things granted, and further requests this Honorable Court to issue the Extraordinary Writ of Habeas Corpus directed to the Sheriff of Etowah County, Alabama state, and/or any other person into whose custody, actual or constructive, your Applicant has been or may be remanded, to produce the Person and Body of your Applicant, in and before this Honorable Court at a date and time certain, in a manner consistent with the Rule of Law established by Alabama Statute 15-21-14, establishing a date and time certain for a hearing on the relief requested by this Application so that a statutorily sufficient adjudicatory hearing may be held to determine the propriety, if any there be, for the restraint upon the Person and liberty of the Applicant herein. Upon information and belief, the Person of Applicant is not presently accused of any misdemeanor nor is He presently under any felony indictment or other felony charges related to the instant or other matters, except for the charge(s) from which this proceeding arose.

Application for Extraordinary Writ of Habeas Corpus:

12. In strict compliance with the requisites of an Application for the Extraordinary Writ of Habeas Corpus, as set forth in Alabama Statute 15-21-4 pertaining to the contents and requisites of a Writ of Habeas Corpus, Richard Hamilton Hayward, Relator, hereby states as follows:

a. That this Application for the Extraordinary Writ of Habeas Corpus, after being signed by Relator and then lodged with the Clerk of this Court, pending a judicial grant of leave to file, and upon presentation by Relator, Relator represents that this Application is being made on behalf of Applicant, who is presently illegally restrained of His liberty and is presently in the constructive custody of the Sheriff of Etowah County, Alabama state, by virtue of a bond now at issue and is presently released on the said bond, as is further delineated hereinabove; and

b. That Applicant is being restrained of His liberty by virtue of a "BOND", a true copy of which is attached and marked "Exhibit A", the same being issued on or about September 8, 1995, on authority of Judge William W. Cardwell of the Circuit Court of Etowah County, Alabama state; and

c. That the restraint of Applicant herein complained of arises from a warrant for the arrest of Applicant issued on September 8, 1995, alleging to arise from violations of the laws of the State of Alabama respecting possession of controlled and/or illegal substances; and

d. A true copy of said warrant for the arrest of Applicant is attached hereto and marked "Exhibit B"; and

e. That this Application contains a request for relief, as is set forth below; and

f. That this Application is verified by the oath of the Relator herein, Richard Hamilton Hayward, to the effect that the allegations in this Application are true and correct, according to the belief of Relator.

VII.

SPECIFIC ERRORS IN JUDICIAL PROCEDURES
WHICH HAVE RESULTED IN THE ILLEGAL RESTRAINT OF LIBERTY

ERROR ONE

APPLICANT'S RIGHTS TO DUE PROCESS OF LAW WERE VIOLATED IN THAT THE WARRANT FOR SEIZURE AND ARREST AT ISSUE WERE, AND ARE, FATALLY DEFECTIVE AS A MATTER OF LAW.

13. The underlying warrant for seizure of property and

arrest of Applicant was fatally defective, due to the absence of a sufficient and lawful affidavit in support thereof.

14. The underlying warrant for seizure of property and arrest of Applicant was fatally defective, due to the untimely manner in which the warrant was obtained, in that said warrant was obtained after the arrest and seizure were effected.

15. Because of these material defects, evidence seized by fatally defective warrants was admitted against Applicant at trial and thus prejudiced His Right to due process of law.

ERROR TWO

APPLICANT'S DUE PROCESS RIGHTS WERE VIOLATED, IN THAT THE COURT HAS FAILED TO AFFORD TO APPLICANT A PROPER JUDICIAL DETERMINATION OF A WAIVER OF COUNSEL AND, AS A RESULT, APPLICANT DID NOT KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND INTELLIGENTLY WAIVE HIS RIGHT TO COUNSEL, PURSUANT TO RIGHTS GUARANTEED TO HIM UNDER THE FIFTH AND SIXTH AMENDMENTS TO CONSTITUTION FOR THE UNITED STATES OF AMERICA, AND THE CORRESPONDING PROVISIONS OF THE CONSTITUTION FOR ALABAMA STATE.

16. As background for this section, Applicant was attached by a WARRANT which was issued after the arrest and search on September 8, 1995.

17. During hearings held before the District and Circuit Courts of Alabama, your Applicant was asked if He wanted Counsel, to which, reportedly, Applicant's answer was that Applicant did not want a licensed member of the State Bar of Alabama to represent Him in the trial of the charges then pending.

18. Upon information and belief, Relator asserts that your Applicant was, at that time and is now, incompetent as to, and thus incapable of, comprehending the meaning of the term "Right of Counsel", as said term applies to a civil and/or criminal trial or pre-trial hearing which he was immediately and without reasonable or sufficient notice required to respond and defend.

19. Then defendant, and here your Applicant, is a 47 year

old male who is in an altogether understandably precarious physical condition, having serious physical and medical disabilities, who is not a lawyer and has no legal training and who does not (Relator has reason to believe) comprehend the full meaning of His right(s) to Counsel or, for that matter, His other Rights to a fair and full adversarial hearing in the adjudication of the criminal allegations pending, and their implications.

20. Under the circumstances presented here, in the face of a medical condition generally described above, the Defendant and now your Applicant was merely asked by the District Court and the Circuit Court if he wanted Counsel.

21. Under those questionable conditions, the implication arising from these proceedings is that Applicant had the capacity to discern the full significance of the question and its import as it would affect His liberty. Apparently, the Court considered Him not only competent to answer the question, but did in fact accept His response as being entirely valid and sufficient, as a matter of law, but failed entirely to make an adequate record of that transaction which judicially determined the validity of the alleged waiver.

22. On the contrary, Relator suggests that this record presents circumstances which are not the stuff of which the legal concept of a knowing and intelligent waiver of Counsel is prudently made. In point of fact, Relator proffers that a high probability of a denial of Counsel is evidenced by the present state of record arising from the several proceedings, including trial on the merits. In said proceedings, Applicant was subjected to repeated hearings covering technical matters which were, apparently and clearly (as is now evidenced by the results), not within His capabilities or experience, and which

could not possibly have resulted from a knowing and intelligent waiver of His Right to the effective assistance of Counsel during His defense. All of the proceedings were made in adjudication of the property and liberty of the Defendant, and now here your Applicant.

23. On information and belief Relator states that both the pre-trial hearing court as well as the trial court failed to make meaningful inquiry into the limits on Applicant's ability, knowledge, intelligence and cognizance of the dangers to which Applicant was subjecting Himself.

24. Accordingly, Relator here asserts that the District and Circuit Courts' failure to procure a knowing and intelligent waiver of Applicant's Right to Counsel violated Applicant's due process rights and rendered the pre-trial proceedings and trial, conviction, judgment, and sentence of the Trial Court to be entirely void as being absent jurisdiction and in denial of Applicant's fundamental Right to fair hearings consistent with the well established standards of due process of law.

ARGUMENT AND AUTHORITIES WITH REGARD TO TRIAL COURT

ERROR THREE

a. APPLICANT'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL CANNOT BE WAIVED, EXCEPT WITH A KNOWING, INTELLIGENT AND COMPETENT WAIVER MADE AND EVIDENT UPON THE RECORD OF THE PROCEEDINGS.

25. The Sixth Amendment to the United States Constitution states in pertinent part:

> "In all criminal prosecutions, the accused shall enjoy the right to ... have the assistance of Counsel for his defence."

26. The United States Supreme Court has held in Johnson v. Zerbst, 304 U.S. 458, that:

"... the sixth Amendment stands as a jurisdictional bar to a

valid conviction and sentence depriving [one] of his life or his liberty. A court jurisdiction at the beginning of trial may be lost in the courts of the proceedings due to a failure to complete the court -- as the Sixth Amendment requires -- by providing counsel for an accused who is unable to obtain counsel, who has not intelligently waived this constitutional guaranty, and whose life or liberty is at stake. If this requirement of the Sixth Amendment is not complied with, the court no longer has jurisdiction to proceed. The judgment of the conviction pronounced by a court without jurisdiction is void, and one imprisoned thereunder may obtain release by habeas corpus." See Johnson supra.

27. Further from Johnson v. Zerbst:

"This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused. While an accused may waive the right to counsel, whether there is a proper waiver should be clearly determined by the trial court, and it would be fitting and appropriate for the determination to appear upon the record." See Johnson supra at 465.

b. CONTRARY TO THE GUIDELINES OF SETTLED LAW, THE TRIAL COURT FAILED AFFIRMATIVELY TO MAKE OR INQUIRE INTO THE EXTENT THAT YOUR APPLICANT WAS FULLY AND PROPERLY AWARE OF HIS RIGHT TO COUNSEL, AND FURTHER DENIED AN ADEQUATE RECORD FOR THE PURPOSE OF REVIEW.

28. Even though Applicant was noticeably without assistance of Counsel, and despite the court's posing the naked question as to Applicant's desire for Counsel, the trial court never fully and properly advised Applicant of the possible consequences and the implications which awaited Him as a result of the nature and requirements of the pre-trial hearings, and the trial in chief.

29. Apparently, the trial court failed to make any determination beyond that of a naked question and its cursory answer, thus leaving the court and the record devoid of either an affirmative attempt to discern Applicant's comprehension of the question or the implications, including incarceration, which may have, and in this case probably would have been, resulted from an absence of proper Counsel.

30. The District and Circuit Courts failed to make a

sufficient record of the proceedings capable of plenary review of the issues surrounding Applicant's Right to Counsel.

VIII.

SUMMARY

31. Relator has herein made a prima facie case for issuance of the Extraordinary Writ of Habeas Corpus, meeting the threshold requirements for issuance of the Great Writ as set forth in Alabama Statute 15-21-4.32.

32. Thusly, Relator has invoked the duty of an authorized court to issue the Extraordinary Writ of Habeas Corpus forthwith, pursuant to Alabama Statute 15-21-8, in that:

> ... [T]he judge to whom the application for a writ of habeas corpus is made must grant the same without delay, unless it appears from the petition itself or from the documents thereunto annexed that the person imprisoned or restrained is not entitled to the benefit of the writ under the provisions of this chapter.

RELIEF REQUESTED

Wherefore, all premises considered, Richard Hamilton Hayward, Relator on behalf of your Applicant, respectfully requests, on the prima facie showing, as is set forth in this Application for the Extraordinary Writ of Habeas Corpus, that this honorable Court grant the following relief:

(1) Issue, forthwith, the Extraordinary Writ of Habeas Corpus; and,

(2) Authorize the issuance of a reasonable and prudent personal recognizance appearance bond, pending a statutorily sufficient adjudicatory hearing on the Extraordinary Writ of Habeas Corpus; and,

(3) Fix a date and time certain at which a statutorily sufficient adjudicatory hearing may be held in a dispositive determination of the propriety of the present restraint upon the liberty of your Applicant; and,

(4) Issue any and all other and added relief to which Applicant may show Himself to be, or is otherwise, justly entitled at law, or in equity, and which this Court deems to be just and proper in this action.

Thank you very much for your consideration.

Dated: March 22, 1997

Respectfully submitted,

/s/ Mike Kemp
_____
William Michael Kemp, Sui Juris
Citizen of Alabama state
(expressly not a citizen of the United States)

VERIFICATION

STATE OF ALABAMA)
)
COUNTY OF ETOWAH)

Before me, the undersigned authority, on this day personally appeared Richard Hamilton Hayward who, after being duly sworn, did depose and state:

"My name is Richard Hamilton Hayward, I am over twenty-one (21) years of age, have never been convicted of a felony or a crime of moral turpitude, and I am competent to make this affidavit. I am the Relator in the foregoing Application for the Extraordinary Writ of Habeas Corpus, and all statements, allegations, denials and attachments contained therein are true and correct, to the best of My current information, knowledge and belief."

/s/ Rich Hayward
_____
Richard Hamilton Hayward

Given under my hand and seal this ____ day of March, 1997

_____
Notary Public, in and for the State of Alabama

_____
Name of Notary (printed)

# # #

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Alabama v. Kemp

William Michael Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona

Under Protest, Necessity,
and by Special Visitation

CIRCUIT COURT OF ETOWAH COUNTY

ALABAMA STATE

Ex Parte	)	Case No. #CC-95-1083
	)	SUPPLEMENT TO THE
William Michael Kemp	)	APPLICATION FOR EXTRAORDINARY
	)	WRIT OF HABEAS CORPUS:
_____	)	Alabama Statute 15-21-8

To the Judge of this honorable Court:

SUPPLEMENT TO APPLICATION FOR
EXTRAORDINARY WRIT OF HABEAS CORPUS

NOW COMES Richard Hamilton Hayward, Relator, and files this, His Supplement to the Application for an Extraordinary Writ of Habeas Corpus with respect to William Michael Kemp (hereinafter "Applicant"), and here proceeds to supplement the original application, which supplement is made necessary by important changes in the facts and circumstances of this case, as of the preparation and mailing of the Application, as set forth below.

1. As a Supplement to said Application for the Extraordinary Writ of Habeas Corpus respecting the restraint of the liberty of William Michael Kemp, Relator, Richard Hamilton Hayward further represents to this Court the following, the same to be annexed to, and become an integral part of, said Application, as though the same were stated in full and at length therein as follows:

2. On Saturday evening, March 22, 1997, Applicant appeared at the Etowah County Law Enforcement Complex Jail and submitted Himself voluntarily to the custody of deputies of the Sheriff of Etowah County, Alabama state, and is now "in custody" and is restrained of His liberty.

3. Attached to this Supplement is a true copy of the Order of Commitment, signed and entered by Circuit Judge Donald W. Stewart on March 17, 1997.

4. On Saturday, March 22, 1997, at approximately 7:30 p.m. Central Standard Time ("CST"), Applicant's Counsel mailed directly to the Honorable Roy Moore, Judge of the Circuit Court of Etowah County, laser-printed originals of all pleadings supporting Applicant's Petition for Extraordinary Writ of Habeas Corpus, via Priority United States Mail. See attached MEMO dated March 22, 1997 from Paul Andrew Mitchell to the Honorable Roy Moore, Judge. Said Counsel was advised by the USPS night clerk in Tucson, Arizona state, that the mail in question could be expected to arrive by Tuesday, March 25, 1997, if not sooner.

5. On information and belief, Relator represents to this honorable Court that, to the best of His current information, knowledge, and belief, there are no other changes which are required by Alabama statutes to be disclosed with respect to the changed circumstances as herein reported in this matter.

Respectfully submitted this _____ day of March, 1996.

/s/ Rich Hayward
_____
Richard Hamilton Hayward
Relator of Record

VERIFICATION

STATE OF ALABAMA)

)
COUNTY OF ETOWAH)

Before me, the undersigned authority, on this day personally appeared Richard Hamilton Hayward who, after being duly sworn, did depose and state:

"My name is Richard Hamilton Hayward, I am over twenty-one (21) years of age, have never been convicted of a felony or a crime of moral turpitude, and I am competent to make this affidavit. I am the Relator in the foregoing Supplement to the Application for Extraordinary Writ of Habeas Corpus, and all statements, allegations, denials and attachments contained therein are true and correct, to the best of My current information, knowledge and belief."

Purpose of Notary is for identification ONLY, and not for entrance into any foreign jurisdiction(s).

/s/ Rich Hayward
_____
Richard Hamilton Hayward

Given under my hand and seal this ____ day of March, 1997

_____
Notary Public, in and for the State of Alabama

_____
Name of Notary (printed)

# # #

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Alabama v. Kemp

William Michael Kemp, *Sui Juris*
c/o 2108 General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona

Under Protest, Necessity,
and by Special Visitation

CIRCUIT COURT OF ETOWAH COUNTY

ALABAMA STATE

STATE OF ALABAMA,	) Case No. #CC-95-1083
	)
Plaintiff,	) MEMORANDUM OF LAW
	) IN SUPPORT OF PETITION FOR
v.	) WRIT OF HABEAS CORPUS,
	) WITH POINTS AND AUTHORITIES
WILLIAM MICHAEL KEMP [sic],	)
	)
Defendant.	)
_____	)

COMES NOW William Michael, Kemp, *Sui Juris*, Citizen of Alabama state, expressly not a citizen of the United States ("federal citizen") and Defendant in the above entitled action (hereinafter "Defendant"), to present this, His MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS, WITH POINTS AND AUTHORITIES, filed concurrently in the instant case with said Petition.

The Sixth Amendment to the U.S. Constitution states:

> In all criminal prosecutions, the accused shall enjoy the right ... to have the assistance of Counsel for his defence.

Defendant asks this honorable Court to take Judicial Notice of the fact that many of the men who contributed to the writing or ratifying of the Constitution were attorneys, such as John Jay, first Chief Justice of the U.S. Supreme Court, and John Marshall,

a later Chief Justice. John Adams, James Wilson, John Blaire, and Oliver Ellsworth were among the many fine attorneys who

assisted in approving the language used in the Constitution for the United States of America (hereinafter "U.S. Constitution").

Are we to believe that the word "COUNSEL" was selected by these "attorneys" with no thought whatsoever to its Common Law meaning at that time?

In discussing a defendant's Right to Counsel, the U.S. Supreme Court has held:

> ... [H]is right to be heard through his own counsel is UNQUALIFIED. Chandler v. Fretag, 348 U.S. 3 [emphasis added]

In consulting Noah Webster's 1828 dictionary, the word "unqualified" is defined as:

> Not modified, limited, or restricted by conditions or exceptions; .... (Noah Webster's First Edition of an American Dictionary of the English Language, 1828, republished in facsimile edition by Foundation for American Christian Education, San Francisco, California, second edition, 1980)

It is undeniable that the explicit use of the word "Counsel" in the Sixth Amendment was intended to mean someone other than an attorney, as well as an attorney. This view is upheld by a U.S. District Court when it recognized an accountant as Counsel, and reprimanded an IRS employee:

> Yet while he was informing the prospective defendant of his Right to Counsel, he was simultaneously requesting that the Defendant's Counsel leave the interrogation. In effect, the investigator informed Tarlowski that he might have his attorney present, but not his accountant.

Ruling in favor of Tarlowski's motion to suppress, the Court said:

> For a government official to mouth in a ritualistic way part of the warning about the right to counsel, while excluding the person relied upon as counsel is, in effect, to reverse the meaning of the words used. U.S. v. Tarlowski, 305 F.Supp. 112 (1969)

Defendant also asks the Court to take Judicial Notice of the use of the word "Counsel" in the 17th century:

> ... and in all courts persons of all persuaisions [sic] may freely appear in their own way, and according to their own

> manner and there plead their own causes themselves, or if unable, by their friends .... Fundamental Constitution for the Province of East Jersey (1683) [emphasis added].

To have a "friend" act as Counsel was a Common Law Right and was recognized as such in the Bill of Rights when the term "Counsel" was used instead of the term "attorney."

> The language of the Constitution cannot be interpreted safely, except by reference to common law and to British institutions as they were when the instrument was framed and adopted. The statesmen and lawyers of the convention who submitted it to the ratification of conventions of the thirteen states, were born and brought up in the atmosphere of the common law and thought and spoke in its vocabulary ... when they came to put their conclusions into the form of fundamental law in a compact , they expressed them in terms of common law, confident that they could by shortly and easily understood. Ex parte Grossman, 267 U.S. 87, 108 (1925)
>
> [emphasis added]

No limit or qualification was ever intended to be put upon the Right to "assistance of Counsel" in the Sixth Amendment and Defendant submits the word "Counsel" was used in recognition of the Common Law Right to have one's "friends" speak for a Defendant, if he so chose. Reference to the Common Law is mandatory in a proper interpretation of the U.S. Constitution, but most particularly in the Bill of Rights. There is a preponderance of U.S. Supreme Court cases which uphold the position of Defendant on interpretation of the U.S. Constitution.

> ... as men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey: the enlightened patriots who framed our constitution and the people who adopted it must be understood to have employed the words in their natural sense, and to have intended what they have said. Gibbons v. Ogden, 22 U.S. 1 (1824).

And,

> ... In the construction of the constitution, we must look to the history of the times, and examine the state of things existing when it was framed and adopted. 12 Wheat 354; 6 Wheat 416; 4 Peters 431-2; to ascertain the old law, the mischief and the remedy. State of Rhode Island v. The State of Massachusetts, 37 U.S. 657 (1938)

And also, in speaking further of Constitutional provisions, we

find:

> We agree, it is not to be frittered away by doubtful construction, but like every clause in every constitution it must have reasonable interpretation, and be held to express the intention of the framers. Woodson v. Murdock, 89 U.S. 351, 369 (1874)

And further,

> The necessities which gave birth to the Constitution, the controversies which precede its formation and the conflicts of opinion which were settled by its adoption, may properly be taken into view for the purposes of tracing to its source, any particular provision of the Constitution, in order thereby, to be enabled to correctly interpret its meaning. Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 558

History shows conclusively that it was a Common Law Right to be represented in court by a "friend" rather than an attorney, if one chose. Defendant claims that right herein, which the Sixth Amendment did indeed secure, and is not subject to "revision" by the American Bar Association.

> Undoubtedly what went before the adoption of the Constitution may be resorted to for the purpose of throwing light on its provisions. Marshall v. Gordon, 243 U.S. 521, 533 (1971)

Each word has a particular meaning and was deliberately chosen. The word "Counsel" was not idly set down as the law of this land, but, on the contrary, was selected with great skill and meaning.

> To disregard such a deliberate choice of words and their natural meaning, would be a departure from the first principle of Constitutional interpretation. "In expounding the Constitution of the United States," said Chief Justice Taney in Holmes v. Jennison, 14 540, 570, 571, "every word must have its due force and appropriate meaning; for it is evident from the whole instrument, that, no word was unnecessarily used, or needlessly added." The many discussions which have taken place upon the construction of the Constitution, have proved the correctness of this proposition; and shown the high talent, the caution and the foresight of the illustrious men who framed it. Every word appears to have been weighed with the utmost deliberation and its force and effect to have been fully understood. Wright v. U.S., 302 U.S. 583 (1938)
>
> [emphasis added]

Little did the Framers of Our Constitution, who labored so

long and hard to fashion it, realize that the day might come when it would be ridiculed by law professors, snickered at by law clerks, and consigned to the wastebasket by attorneys, the bar, and the Judiciary.

To narrowly interpret the word "Counsel" to mean only "licensed attorneys" is an infringement of Defendant's Sixth Amendment right to Counsel, which even the U.S. Supreme Court has held is "unqualified." See Chandler supra.

The words of the Amendment are simple, clear, and not ambiguous, and were obviously written by Our Forefathers to be understood by The People, as the following citation undeniably indicates:

> The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary, as distinguished from technical meaning; where the intention is clear, there is no room for construction, and no excuse for interpolation or addition. Martin v. Hunter's Lessee, 1 Wheat 304; Gibbons v. Ogden, 9 Wheat 1; Brown v. Maryland, 12 Wheat 419; Craig v. Missouri, 4 Pet. 10; Tennessee v. Whitworth, 117 U.S. 139; Lake County v. Rollins, 130 U.S. 662; Hodges v. United States, 203 U.S. 1; Edwards v. Cuba R. Co., 268 U.S. 628; The Pocket Veto Case, 279 U.S. 655 (justice) Story on the Constitution, 5th ed., sec. 451; Cooley's Constitutional Limitations, 2nd ed., P. 61, 70.

And further,

> It cannot be presumed that any clause in the Constitution is intended to be without effect .... Marbury v. Madison, 5 U.S. 137, 174 (1803)

In passing, it might be noted that Chief Justice John Marshall, who principally was responsible for the holding in the above cited Marbury case, and who seems to be looked upon by most attorneys and judges as the greatest of Our Supreme Court justices, is reported to have had two weeks law school preparation, at which time half his study was philosophy. Also:

> The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when it was adopted, it means now. South Carolina v. United States, 199 U.S. 437, 448 (1905).

Defendant is deeply perturbed at the erosion of his fundamental Right to Counsel by the very legal profession itself. The restriction of the Courts to professional attorneys only, is the result of attorneys who sat in Our legislatures and voted upon laws which involved, for them, a conflict of interest and which were, and are, upheld by their brother attorneys, who sit on the benches of Our Courts, ruling in violation of the Sovereign will of The People, which it is their sworn duty to obey.

Any State law which prohibits laymen from speaking on behalf of another, when sought for that purpose, is a violation of the Sixth Amendment. Any implementation of such State laws also violates Defendant's rights to freedom of speech, wherein he may speak through whom he chooses; to freedom of association wherein he may associate with whom he pleases; to due process of law, wherein he is denied Counsel of his choice and therefore as a consequence, he is denied a fair trial, and he is also denied an impartial jury by being unable to speak, as he knows he should, through Counsel of trust to the jury.

To be denied a layman to assist him with advice, and to act as a spokesman at Defendant's request, is to subject Defendant to unequal treatment under the law. As a Citizen of Alabama state, Defendant has less Rights and worse treatment than inmates in state and federal prisons, who are permitted "jailhouse" lawyers -- laymen who practice law on behalf of their fellow prisoners with the approval of many Courts.

As a Citizen of Alabama state, Defendant is denied the right to contract when he is forbidden the assistance of one who is willing to speak for him at his request. The denial of Defendant's right to contract, it is respectfully submitted, occurs because attorneys, who are, in this State, members of a

bar association (a monopoly they have promoted through their controlled legislature) have purported to make a "law" for the protection of the "public"; whereas, they have actually instigated a self-serving franchise, in great part at the expense of the public and, in Defendant's view, to the detriment of Constitutional government.

Again, Defendant is denied a "fair trial" and an impartial jury when a so-called "law" prohibits him from contracting with someone of his choosing for Defendant's legal defense against a hostile government, bent on punishing Defendant for the exercise of the very fundamental Rights which the government should be upholding rather than attacking.

The aforementioned rights are infringed, abridged, and denied when the word "Counsel" is qualified to mean only attorneys may speak for the defense in a Court of Law. This was not the case in Tarlowski, where the "Counsel" referred to by the Court was an accountant.

It appears to Defendant that a careful consideration of the words of the Sixth Amendment, securing his fundamental Right to Counsel of CHOICE must be undertaken here. Since no words were idly selected by the Forefathers, let us emphasize them here and now so that there can be no misunderstanding as to their meaning, for Defendant believes his stand in this matter is constitutionally correct. The vital words here are:

> In all criminal prosecutions, the accused SHALL ENJOY the RIGHT ... to have the ASSISTANCE OF COUNSEL for his defence.

Defendant requests the Court's indulgence and patience for a brief analysis of the words capitalized above because, where his Life, Liberty, or Property are involved, it is not a matter which he takes lightly.

For the source of the common meaning of common words in use

when the U.S. Constitution was written, we refer to Noah Webster's First Edition of an American Dictionary of the English Language, 1828, republished in facsimile edition by the

Foundation for American Christian Education, San Francisco, California, Second Edition, 1980.

> ALL: a. Every one ... the whole quantity, extent, duration, amount, quality, or degree; ... This word signifies the whole or entire thing ....

It is obvious on its face that the word "all" allows for no exceptions and is all-inclusive, and it is also obvious that the Sixth Amendment, therefore, allows for no criminal trial where it does not apply.

> SHALL: v.i. In the present tense, shall ... forms the future tense; ... informs another that a fact is to take place .... In the second and third persons, shall implies a promise, command or determination. "You shall receive ...."

The word "shall," in legal contemplation, is mandatory; it is a word "of command ... must be given a compulsory meaning." It is clearly so stated on page 1233 of Black's Law Dictionary, Fifth Edition, 1979.

> ENJOY: v.t ... To feel or perceive with pleasure; to take pleasure or satisfaction in the possession or experience of .... We enjoy a free constitution and inestimable privileges.

Defendant has informed the Court that he has little confidence in the legal profession of Haldeman, Erlichman, Mitchell, Dean, Nixon and Agnew, and not to mention many others. He is defending himself out of necessity, not out of desire. Defendant is aware of a few attorneys whom he trusts, but their multi-thousand dollar fees are out of the question for this Defendant. He does not trust just any attorney out of a grab-bag whom the government is willing to furnish; neither would this defendant be satisfied with such an "attorney's" concept of the U.S. Constitution. The average attorney, full of law-school

brainwashing, thinks that the U.S. Constitution is what the judges say it is, rather than what the Constitution itself says it is.

If Defendant cannot "enjoy" the "assistance of Counsel" from the Bar (i.e. the legal establishment), then he has the undeniable Right of Counsel which he can enjoy. To deny this Right is to deny his Rights under the Sixth Amendment to Counsel. It is the use of the word "ENJOY," as well as "COUNSEL," which gives a Defendant the Right to the Counsel of his choice, licensed or unlicensed, as was provided for by the Founding Fathers, and of which the Ninth Amendment clearly prohibits any denial or disparagement:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

What honest attorney or judge can fail to see that in the denial of Counsel of choice to a Defendant in court, that he is not "denying" or "disparaging" both enumerated and non-enumerated rights?

And what honest attorney or judge can fail to see that in enforcing a so-called statute denying a layman the opportunity to speak in defense of a friend at the friend's request, that said lawyer or judge is rendering infidelity to his oath of office to support the Constitution which states, in Article VI, Clause 2?

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
>
> [emphasis added]

Attorneys are called "officers of the court," and they are required to take oaths to support the U.S. Constitution. When the attorneys attempt to prevent the exercise of the Rights of

defendants in court to speak through lay friends of confidence, the attorneys are involved in denying that which they swear to uphold -- to their eternal discredit and dishonor.

The fact that the attorneys have been successful for a long time, and that colleagues in judicial robes have upheld them, does not make it right; it does not make it constitutional; and it certainly does not enhance the Rights of the grass-roots American People who are tired of being subjected to the exorbitant legal fees of a closed-shop union which says, "If you exercise your fundamental Rights, we will see to it that you go to jail," and now, "You have to go our route because the loss of your fundamental Rights is a settled matter."

How could any decent person uphold such a system? How can the legal and the judicial profession escape tarnished "images?" Is the denial of fundamental Rights to the Defendant "frivolous?" Is it not better to restore fundamental Rights than to have a restless People rise up? Must we have "government of attorneys, by attorneys, and for attorneys?" Especially, after Watergate, the People are not going to stand for it.

It is important to note that the Sixth Amendment word "enjoy" follows the word "shall," and it would therefore be a command of the sovereign power that the ability to enjoy the right to Counsel is mandatory. The words "shall ... enjoy" make this very clear.

The judgment as to what Counsel the Defendant can "enjoy" is left entirely in his hands, and nowhere in the Sixth Amendment is this prerogative given to the Courts; it remains the fundamental "Right" of the Defendant.

> RIGHT: n. Conformity to the will of God, or to His law, the perfect standard of truth and justice ... Just claim; immunity; privilege. All men have the right to the secure enjoyment of life, personal safety, liberty, and property.

> We deem the right of trial by jury invaluable, particularly in the case of crimes.

The "right" to "enjoy" Counsel is claimed by Defendant by law, nature, and tradition, and may not be infringed or disparaged by any private association, its members, or by its sympathizers employed in government. It is a right which the People retained for themselves and it is to be protected by their Judiciary. It is not a function of the People's Courts to protect the vested interests of any private monopoly as against the rights of The Sovereign People. Non-attorneys have as much right to speak for a Defendant in Our Courts as attorneys. Otherwise, the Courts are run only for "special interests" and are, in fact, protecting a monopoly, in violation of the Sherman Anti-Trust Act. Such a monopoly acts to restrain interstate commerce and to restrain competition and trade; without such monopoly practices, the cost of justice to The People would be substantially lower. Attorneys could still ply their trade, but they would have to be competent and deserve more fully the business which they would acquire from those who voluntarily trusted them.

> ASSISTANCE: on. Help; aid; furtherance; succor; a contribution of support in bodily strength or other means.

The common understanding of the word "assistance" is that it comes from one who acts in a secondary capacity. For example, assistance is given to a President by a Vice President who "assists" him. We find a definition of "assistant" which follows the word "assistance." The above mentioned dictionary defines an assistant as one who serves in a subordinate position, as a helper. The common practice today of the Defendant "assisting" the defense attorney is one to which Defendant objects. It is an erosion of the original right which this motion is aimed at reestablishing. Defendant may also promote assistant Counsel to

co-Counsel wherein they share in the defense and maintain that such a decision is theirs, not the Court's. It is theirs by Common Law and may not be denied or infringed by either the Courts or the Bar Association. It is also their fundamental Right.

> COUNSEL: n. Advice; opinion or instruction ... Those who give counsel in law; any counselor or advocate, or any number of counselors, barristers, or sergeants; as the plaintiff's counsel, or the defendant's counsel.
>
> COUNSELOR: Gan. Any person who gives advice; .... One who is consulted by a client in a law case; one who gives advice in relation to a question of law; one whose profession is to give advice in law and manage causes for clients.

If the men who framed the Bill of Rights meant by "COUNSEL" a licensed attorney, they would have said "licensed attorney". Surely, the Court cannot refuse to recognize this. In the interest of fairness, let the Court grant the Defendant's motion.

Neither the President of the United States nor the Governors who head the executive branches of government are required to be attorneys in order to administer and enforce the laws. Federal

judges are not required by the U.S. Constitution, or by valid statute, to be attorneys. Congressmen, Senators, and other Legislators who pass legislation, statutes, and "laws" do not have to be "attorneys." Magistrates do not have to be "attorneys." Does it not seem strange that a Defendant cannot represent himself in Court without being an "attorney?" Are we playing games with the meaning of "represent"?

Why then, the Defendant asks, must the Defendant's representative in Court be a licensed attorney? Why must the Defendant's representative have a title which the lawmaker, the enforcer, the federal law adjudicator, and the Defendant himself do not need? Speak, Oh Learned Ones! And please speak without attempting to turn white into "black," and black into "white," as

the graduates of law schools seem so gifted at doing. And please speak without being in contempt of the Constitution for the United States, as lawfully amended.

I
THE WILL OF THE SOVEREIGN POWER

The U.S. Constitution is the will of The People, clearly set down for their agents, elected and appointed, to follow. No law supersedes the U.S. Constitution and only those in "pursuance" of it may stand. Even treaties must be made "in Pursuance" of the U.S. Constitution.

> We the People ... do ordain and establish this Constitution for the United States of America. Preamble to the U.S. Constitution (1789)

In establishing this government, the People said that:

> This Constitution, and the Laws ... made in Pursuance thereof ... shall be the supreme Law of the Land .... Article VI, Cl. 2, U.S. Constitution.

And they also commanded that:

> ... [A]ll ... judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; .... Article VI, Clause 3, U.S. Constitution

It is clearly the will of the bar associations, not of the People, to close the Courts to all but licensed attorneys. Use of the word "Counsel" rather than "attorneys" denotes the will of the Sovereign Power, which cannot be lawfully overridden.

> In the United States, Sovereignty resides in the people, who act through the organs established by the Constitution. Chisholm v. Georgia, 2 Dall. 419, 471; Penhallow v. Doane's Administrators, 3 Dall. 54, 93; McCullock v. Maryland, 4 Wheat 316, 404, 405; Yick Wo v. Hopkins, 118 U.S. 356, 370; ... Congress cannot invoke the sovereign power of the people to override their will as thus declared. Perry v. United States, 294 U.S. 330, 353 (1935)

In the Sixth Amendment, the People declared their will as to the rights of the Accused in all criminal prosecutions and the right of the Defendant to "enjoy" the "assistance of Counsel" was purposely couched in the Common Law term, "Counsel," so as

to include those friends upon whom Defendants may depend for advice and protection.

In a speech by Judge Learned Hand at the Mayflower Hotel in Washington, D.C., on May 11, 1929, entitled, "Is There a Common Will?" in speaking of judges, he said:

> He is not to substitute even his juster will for theirs; otherwise it would not be the "common will" which prevails, and to that extent, the people would not govern.

Defendant has the right to be foolish as well as wise, and his liberty is his to do with as he pleases. To deny him his freedom of choice in this matter of Counsel is unduly to interfere with

the defense, and constitutes a denial of the will of The People, from whom the Courts' authority is derived, and a substitution in lieu thereof is being used -- that of the "will of attorneys."

> Bills of rights are, in their origin, reservations of rights not surrendered to the prince. Hamilton, Federalist Papers, No. 84.

The right to have a "friend" plead one's case, or to assist one in Court, is a Common Law right secured by the Sixth Amendment.

> History is clear that the first ten amendments to the Constitution were adopted to secure certain common law rights of the people against invasion by the Federal Government. Bell v. Hood, 71 F.Supp., 813, 816 (1947) U.S.D.C., So. Dist. Calif.

Our Founding Fathers spoke and wrote in the vernacular of the Common Law, and "Counsel" was the word they chose. The facts are conclusive on this point, and the record supports this contention. Interpretation of the word "Counsel" to mean "attorney only" is a departure from the safeguards of the Bill of Rights:

> The Bill of Rights was provided as a barrier, to protect the individual against arbitrary exactions of ... legislatures, (and) courts ... it is the primary distinction between democratic and totalitarian way. Re Stoller, Supreme Court of Florida, en banc, 36 So.2d 443, 445 (1948).

A more recent confirmation of fundamental Rights of the Accused

says:

> Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them. Miranda v. Arizona, 384 U.S. 436, 491 (1968)

Even though the Miranda decision referred to the Fifth Amendment right in toto, the above stated principle is of general application, wherein the word "rights" is not qualified.

II
DEFENDANT'S RIGHT
TO FREEDOM OF ASSOCIATION

In Tarlowski supra, the Court said, in suppressing evidence at the request of Tarlowski's motion:

> When a federal official's interference with the right of free association takes the form of limiting the ability of a criminal suspect to consult with and be accompanied by a person upon whom he relies for advice and protection, he gravely transgresses. For these reasons, the Motion to suppress must be granted.

It was in this case that Tarlowski was denied the Counsel of an accountant, not of a lawyer.

Defendant has a right under the First Amendment freely to associate with whom he pleases in his defense and in its preparation and presentation, so long as such is respectful, with decorum, and without contempt for orderly rules of procedure which do not deprive one of Rights guaranteed by the U.S. Constitution. To deny this Right is also to deny his Fifth Amendment Right to Due Process of Law, which is actually a guarantee of fundamental fairness.

III
DEFENDANT'S RIGHT TO PETITION
FOR REDRESS OF GRIEVANCES

The First Amendment states, in pertinent part:

> Congress shall make no law ... abridging ... the right of the people ... to petition the Government for a redress of grievances.

Defendant asks, "How can I maintain my maximum Right to petition for redress of grievances, if that person whom I choose to speak

for me is not permitted to do so?"

If Congress passes a statute requiring a federal court to abide a statute of the State in which it sits, and said statute

of a state purports to make it a crime for a Defendant to be represented by a non-attorney, then Congress has effectively done not only what the U.S. Constitution does not authorize it to do, but it has done what is also expressly forbidden.

If such is the case, then Congress has made a "law" which frustrates the Right of The People, and the Defendant, "to petition the Government for a redress of grievances."

Of what use is the Right to Petition for Redress of Grievances, if the Defendant is personally handicapped by government? This handicap arises because the Defendant needs assistance in his petitioning, and yet he is limited by a bar association, or a state, or a court which says that a competent "friend" cannot be permitted to speak for the Petitioner because said "friend" has not been brainwashed in certain "approved" law schools. It is in such law schools that the deprivation of the fundamental Rights, although set forth in plain and unambiguous language in the U.S. Constitution itself, is not "settled doctrine." despite the criminal prohibition at 18 U.S.C. 242.

The "licensed attorneys" and "attorney-judges" say that "The Constitution is what the Supreme Court says it is." What if the Congress passes a law saying that any bureaucrat can rape any layman's wife and the Supreme Court says, "Yes, that's perfectly in harmony with the Constitution?"

Then, are we The People to stand for it? Who gave them said authority? Now, what should The People do who have such a Congress and such a Supreme Court? Are the lower court judges brave enough to challenge it, or are they "bound" to follow the higher Court judges?

And where is the member of the bar, the licensed attorney, who now steps forward and announces that the Supreme Court is mistaken? Where does his license go to? Now, who is going to permit him to appear in Court if he doesn't buckle down and stop rocking the establishment?

Obviously, an extreme example has been used; but it is significant. Laymen would not have to stand for such nonsense. Licensed attorneys ... who knows?

That laymen should be subjected to a "drifting" and "unstable" Constitution -- which happens to be what some justices "think it is" at the moment -- can be very frustrating, and that a jury cannot hear a "Counsel" who is not beholden to such a damnable floating doctrine, are indeed a denial of "the Right to Petition (effectively) for Redress of Grievances." To preserve justice, to preserve the semblance of a fair trial and an impartial jury, let the Defendant petition for Redress of Grievances to the jury through "Counsel of his choice," who is not beholden to a corrupt and degenerate system which has perverted the very Law by which it pretends to rule and which it pretends to protect and uphold.

Defendant believes that true religion guarantees freedom of choice, or freedom to choose, to elect, and to select, taking responsibility for the consequences of said choices.

Defendant further believes that he has the right to help others and, in turn, to be helped by those willing voluntarily to answer his call for assistance. In this case, he particularly means in the Courtroom where a hostile government is violating its own laws and trampling upon the Rights of the Sovereign People, which its officers are sworn to protect.

When all the mighty force of an all powerful government is arrayed against a lone individual who has the courage to point out the government's inequities, said individual should be entitled, most of all, to the protection of his religious convictions and rights.

Under the First Amendment, the right of conscience and the right to believe, as long as the same does not trample upon the rights of others, is the number one right protected by government. In pertinent part, the First Amendment states:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; ....

Defendant's religious conviction, again, calls for freedom from oppression and freedom from soul-stifling special interest legislation slapped on a freedom-loving individual on behalf of self-serving perpetrators of special advantages to the legal profession, at the expense of the long-suffering victims of the same. Let the legal profession compete like men with the Counsel Defendant chooses for his defense, and for the proper exercise of his religious Rights, chief among which is the freedom of any choice which does not trample upon the Rights of others.

IV
DEFENDANT'S RIGHT TO EQUAL PROTECTION

Defendant's right to equal protection of the laws is guaranteed through the due process clause of the Fifth Amendment:

> The due process clause of the Fifth Amendment guarantees to each citizen the equal protection of the laws and prohibits a denial thereof by any Federal official. Bolling v. Sharpe, 327 U.S. 497

Defendant asks the Court to take Judicial Notice of an article from Newsweek, September 2, 1974, which tells how a layman, James Yager, handled the legal problems of 3,500 clients (see paragraph 1). The same paragraph also speaks of "His most recent court

appearance," which took place in Atlanta. It describes how "Yager paced the courtroom floor," as he addressed the jury. Mr. Yager is engaging in the practice of law, which is his Right as a Layman, or laymen, to assist him in his defense, if they so desire. To deny this motion is to give prisoners more Rights than to a Free and Natural Person. Such inequity before the law is intolerable.

Said article mentions various others who have adopted law as an avocation and goes on to mention a Mr. Green, another former inmate now on parole, and says that: "Green is a familiar face in the Boston courtrooms, where he maintains his legal activities by submitting amicus briefs for other felons." It would be interesting to know if Mr. Green and Yeager, like Mr. Jefferson and James X, are also black men, and if therefore, fundamental Rights are only available to black men.

In both United Mine Workers v. Illinois Bar Association, 389 U.S. 217, and NAACP v. Button, 371 U.S. 415, and also in Brotherhood of Railhood Trainmen v. Virginia State Bar, 377 U.S. 1 (1964), it was held that a State may not pass statutes

prohibiting the unauthorized practice of law or to interfere with the Right to freedom of speech, secured by the First Amendment.

Defendant is entitled to equal protection of the laws and that includes his right to speak through whom he pleases, when he pleases. The only reasonable condition is that the decorum of the Court and the rules not in conflict with individual Rights be maintained; otherwise there can be no valid denial of this inalienable and legal Right. Defendant is agreeable to this, and has every intention of obeying the proper rules and maintaining the decorum of the Court. To do otherwise is unthinkable.

Defendant herein also believes that it is vital to his defense to seek whatever assistance he can trust, and that if he

decides to be assisted by either licensed or unlicensed Counsel, he has every Right to do so. If the Defendant believes that a combination of both may be to his advantage, to deny him this Right would constitute an unreasonable and arbitrary interference with his defense, by denying him his fundamental Rights freely to associate with whom he chooses; to freedom of speech; to freedom to Petition for Redress of Grievances; and his religious Right of conscience and freedom of choice, without which religion is worth but little.

Defendant also asks the Court to take Judicial Notice that other Defendants in criminal cases are allowed to plan their defenses without interference by the Courts, and Defendant herein claims that same Right.

Surely, we cannot have special laws for attorneys and special grants of privilege to them as a class when these very same privileges are denied all other citizens. The Constitutional prohibitions against Titles of Nobility in Article I, Section 9, Clause 8, and in the original Thirteenth Amendment,

are violated when "attorney" becomes a Title of special privileges, i.e. "Nobility." We must all have equal access to the Courts. Presently, only those attorneys have access to the Courts whom the Courts approve and, as a result, all "approved" attorneys are considered Officers of the Court.

Where does the defendant go when he does not wish to be defended by an Officer of the Court? To use the power of the Court to force the defense to retain an Officer of the Court at the defense table offends the sensibilities of the Defendant to the very core. Defendant may wish voluntarily to select an attorney among his Counsels, but this Defendant believes that he should not be forced to do so. Defendant is simply seeking

freedom of choice in the matter of whether he has no Counsel and represents himself, or uses licensed legal Counsel (attorney), mixed Counsel (attorneys and laymen) or lay Counsel only.

The "stealthy encroachment" upon Defendant's Right to a Counsel who is not licensed by the Bar is the result of a monopoly of the legal establishment, both in and out of government, State and Federal, to "protect" their "price fixing"; to maintain artificially high legal fees; to educate the chosen few in law schools maintained largely at public expense; to protect attorneys from competition from those who know that attorneys have obstructed the U.S. Constitution and left the People at the mercy of a swarm of bureaucrats with endless attorney-promoted regulations and laws which make "crimes" out of the exercise of natural and Constitutionally protected Rights, wherein the attorney-controlled government can prosecute the Sovereign Citizen and force him into the waiting, outstretched arms of his attorney "brotherhood," who will "advise" and "defend" him for a considerable fee.

Little wonder that People are fed up with the profession when it is full of licensed "Haldemans, Erlichmans, Mitchells, and Deans." Little wonder many People almost vomit when contemplating what attorneys have done to this once mighty, powerful, and independent Republic.

Legal fees come too high for many average Citizens. Yet, the same average Citizen cannot turn to laymen who may be well versed in the necessary legal area, and this restricts the Courts to attorneys and those who can afford them. Laymen who cannot afford attorneys must suffer along as best they can. It is as unjust a system of justice as one could conjure up. Of course, some persons may qualify for a Public Defender. That is like being alone in a pit of cobras, and someone comes along and wants

to throw in another cobra. Under those circumstances, what is needed is a mongoose (read "Counsel of Choice"), not another cobra. Perhaps the STAR CHAMBERS weren't so bad after all.

V
DEFENDANT'S RIGHT TO FREEDOM OF SPEECH

Defendant has not only the Right to speak for himself, but also to speak through whom he pleases. This is inherent in the First Amendment Right to freedom of speech. It is also self-evident as a part of the Natural Rights Doctrine. Those Rights which are called inherent and inalienable are outlined in the Declaration of Independence, which antedates all government. They are natural or God-given, rather than government-given, rights. Defendant points out that he does not claim any "attorney-given" rights, but demands that his God-given, Natural Rights not be infringed upon.

This fundamental Right of freedom of speech has been referred to previously, but Defendant wishes to set it out separately to emphasize it to the Court, and herein refers again to United Mine Workers v. Illinois Bar Association supra, NAACP v. Button supra, and the Brotherhood of Railroad Trainmen v. Virginia State Bar supra, in support of said Right.

It is indicative that the words in the First Amendment embrace freedom "of" speech, and not just freedom "to" speak, and while Defendant does not wish to prolong this Brief by a detailed discussion of the difference between the two terms, he simply wishes to bring to the Court's attention that there is a difference, and that its application is obvious.

VI
DENIAL OF FREEDOM OF COUNSEL RESULTS IN A CONFLICT OF INTEREST

Defendant's request for the Court to recognize his Right to non-attorney Counsel in lieu of, or in addition to, attorney

Counsel, would mean that the Court would have to rule during trial on a motion regarding Defendant's Right to non-attorney assistance, including that of assistant spokesman.

If presiding Judge of this Honorable Court has, in the past, ever been a member of any Bar Association or is, at present, a member of a Bar Association, or has close friends or associates connected with a Bar Association, then Defendant finds it difficult to see how the Court could possibly render an unprejudiced and impartial ruling on Defendant's motion regarding his Right to non-attorney Counsel.

It appears to Defendant that the Court would find itself at variance with his own standards, mainly the Cannons of Judicial Ethics, No. 29, which states:

> A judge should abstain from performing or taking part in any judicial act in which his personal interests are involved. If he has a personal litigation in the court of which he is judge, he need not resign his judgeship on that account, but he should, of course, refrain from any judicial act in such controversy.

It is apparent to the Defendant that the denial of Defendant's motion herein would call for the thinking, on the part of most reasonable persons, that the denial was based, at least in part, on a conflict of interest and upon a "hardship of the case," meaning upon the unfortunate Bar Associations.

Granting the motion, however, could not be interpreted as being a conflict of interest, but rather, granting the motion would occur despite personal interest and in favor of fairness, of due process, and the justice to which the Sovereign Citizen of this Republic is entitled under the Sixth Amendment.

VII
FEDERAL COURT'S ENFORCEMENT OF PRACTICE-OF-LAW STATE STATUTE ABRIDGES FIRST, NINTH, AND TENTH AMENDMENTS

The Tenth Amendment of the U.S. Constitution states:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The power to abrogate the Rights mentioned herein has not been delegated to the United States nor to any State through the U.S. Constitution. Such a power is an undelegated colorable "office."

Nothing in the U.S. Constitution of this Union state authorizes a delegation of power to the state to thwart and frustrate the foregoing Rights, i.e. freedom of speech, of

religion, of assembly, of petitioning for redress of grievances, of due process, of the Right to contract, and of equal treatment under the law.

Therefore, assuming the foregoing is true, then the "power" remains with the People, who are the Sovereigns in this country as heretofore pointed out. Therefore, the Defendant retains the power for his choice of a spokesman in Court, "any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." See Article VI, Clause 2. Regardless of this state's statutes or any arbitrary rule making, it cannot invalidate the Defendant's fundamental Rights protected by the U.S. Constitution. Said pretended right to "regulate" the "practice of law" must fall, or recede, when placed alongside the Defendant's fundamental Right to a fair trial by an impartial jury, with due process, freedom of speech, and freedom of contract, as heretofore demonstrated.

It is impossible to delegate to another that which the delegator does not himself possess. Defendant does not have the right to compel the inadequate representation of another and, therefore, this Defendant is powerless to delegate such a tyrannical power to a legislature, whether or not controlled by attorneys or any Bar association.

To summarize the foregoing, the Tenth Amendment prohibits

this State and its Courts from restricting Defendant's fundamental Right to a non-attorney spokesman in court. Such power is not given to the State by either the U.S. or by the State Constitutions. Therefore, in civil cases, the Legislature has usurped, at the prodding of attorneys, the so-called Right to institute a statute prohibiting a Defendant, in a prosecution

against him by his government, from relying upon a preferred spokesman of trust and confidence. In criminal cases, there is no valid reason, statute, or Court ruling that can alter the fundamental Right to Counsel, and the Courts, in denying said spokesman, are arbitrarily usurping Defendant's Right.

The Ninth Amendment reserves all non-enumerated Rights. They are not to be denied or disparaged, though not enumerated. The mention and enumeration of the Right to Counsel under the Supreme authority of the Sixth Amendment cannot be construed to deny or disparage the Right to that Counsel being a non-attorney, or a non-member of any Bar Association licensed to only plea bargain and lose.

It would appear that any decent person would have no difficulty agreeing with the above, and that any other ruling would indeed be "frivolous" and without constitutional authority.

Again, imposing restrictions on Defendant's Counsel violates and circumvents Defendant's Fifth Amendment Rights. In addition, it imposes cruel and unusual punishment upon the Defendant by forcing him to seek legal assistance, when and if he needs it, from those whom he either does not trust or cannot afford.

VIII
DENIAL OF NON-ATTORNEY COUNSEL
VIOLATES CIVIL RIGHTS

Denial of Defendant's desire for a non-attorney of his choice is also a deprivation of his Civil Rights under color of

law, in violation of Defendant's fundamental Rights as protected by 42 U.S.C. 1983, 1985, and 1986. See Owens v. The City of Independence.

CONCLUSION

Any denial of Counsel is an attempt to accomplish that which is specifically prohibited by the Sixth Amendment. The Right recognized therein says nothing about only "court-approved counsel," and that fundamental Right is in no way qualified or limited.

The U.S. Supreme Court held in Miller v. Milwaukee, 272 U.S. 713, 715, that if a statute is part of an unlawful scheme to reach a prohibited result, then "... the statute must fail ...." This was again upheld in McCallen v. Massachusetts, 279 U.S. 620, 630. Legislators, whether Federal or State, may not restrict the Courts only to attorneys in order to deny effective assistance of Counsel to any Defendant who evinces a desire to be represented or assisted by a "friend," in preference to a licensed "attorney." What cannot be done by the front door cannot be lawfully done by way of the back door.

Legislators who pass laws do not have to be attorneys, nor do those who execute the law, i.e. Sheriffs, Governors, Presidents, etc. Even the Justices of the U.S. Supreme Court need not be licensed attorneys. To exclude the People from defending their "friends" in the Courts turns said Courts into a playground for the legal establishment, and is a blatant violation of the Defendant's fundamental Right to Counsel of choice, due process of law, and equal protection under the law. Justice Brandeis said:

> Discrimination is the act of treating differently two persons or things under like circumstances. National Life Insurance Co. v. United States, 277 U.S. 508, 630.

As far back as 1886, the U.S. Supreme Court was concerned with the unjust and illegal discriminations which were running rampant. The Court frowned upon law administered with an "unequal hand":

> ... [S]o as practically to make unjust and illegal discrimination between persons in similar circumstances material to their rights, the denial of equal justice is still within the prohibition of the Constitution. Yick Wo v. Hopkins supra.

Therefore, the Courts cannot be the exclusive territory of a legal "elite corps," but must be open to all the Sovereign People alike -- on an equal basis, providing due process of Law and equal protection under that Law.

The Ninth and Tenth Amendments also prohibit the denial of Counsel of choice. Nowhere has Defendant or his predecessors delegated such restrictive powers to the United States or to any of the Union states, and if the Court will closely examine the Ninth and Tenth Amendments, it will find that the Right to Counsel of choice, such as Defendant herein claims, is also secured in the penumbra of these Amendments, particularly the Ninth Amendment, which is protected in the states. Roe v. Wade, 41 L.W. 4213 (1973); Shapiro v. U.S., 641, 394 U.S. 618 (1966); Griswold v. Connecticut, 381 U.S. 479 (1964).

Speaking of controlling constitutional law, as opposed to mere statute law, Chief Justice Marshall said:

> Those then, who controvert this principle, that the Constitution is to be considered in court as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the Constitution and see only the law.

And the Court concluded that:

> This doctrine would subvert the very foundation of all written constitutions. Marbury v. Madison, 5 U.S. 137, 176

The United States Supreme Court also pointed out in this

decision that, in declaring what should be the supreme Law of the Land, the U.S. Constitution itself was first mentioned and "... not the laws of the United States generally ...."

The attorneys who sit in Our State legislatures and in Our Congress have no right to pass laws which infringe upon, or abolish, Our fundamental Rights under the U.S. Constitution for the United States of America, as lawfully amended, and such unconstitutional laws which purport to do so must be declared null and void and not binding upon the Courts. See Miranda v. Arizona supra, at 491.

VERIFICATION

The Undersigned hereby certifies, under penalty of perjury, under the laws of the United States of America, without the "United States," that the above statements of fact are true and correct, to the best of My current information, knowledge, and belief, so help Me God, pursuant to 28 U.S.C. 1746(1).

Respectfully submitted this _____ day of _____, 1996.

/s/ Richard Hayward
_____
Richard Hamilton Hayward
Relator of Record

PROOF OF SERVICE

I, Richard Hamilton Hayward, Sui Juris, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least 18 years of age, a Citizen of one of the United States of America, and that I personally served the following document(s):

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS, WITH POINTS AND AUTHORITIES

by placing one true and correct copy of said document(s) in first class United States Mail, with postage prepaid and properly addressed to the following:

James E. Hedgspeth, Jr.
District Attorney
16th Judicial Circuit
Etowah County Offices
800 Forrest Avenue
Gadsden, Alabama state

Clerk of Court
Circuit Court of Etowah County
Etowah County Courthouse
800 Forrest Avenue
Gadsden, Alabama state

Executed on:

/s/ Richard Hayward
_____
Richard Hamilton Hayward, Sui Juris
Relator of Record

# # #

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William Michael Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona

Under Protest, Necessity,
and by Special Visitation

CIRCUIT COURT OF ETOWAH COUNTY

ALABAMA STATE

Ex Parte	)	Case No. #CC-95-1083
	)	
William Michael Kemp	)	ORDER GRANTING HABEAS CORPUS
	)	
_____	)	

O R D E R G R A N T I N G H A B E A S C O R P U S

NOW PENDING before this Court is the Application of Relator, Richard Hamilton Hayward, requesting that this Court grant the EXTRAORDINARY WRIT OF HABEAS CORPUS with respect to Applicant, William Michael Kemp. On leave granted by this Court, the Application for Habeas Corpus relief was signed by, and has been filed before this Court by, Relator, Richard Hamilton Hayward.

Having considered the Application in light of the threshold requirements of Alabama Statute 15-21-4, it is the opinion of this Court that the Application is well taken.

Having complied with the express requirements of the Alabama Statutes, the Application triggers the duty of this Court, pursuant to Alabama Statute 15-21-8, without delay to issue the Great Writ. Further, it is the opinion and duty of this Court to issue the Great Writ of Habeas Corpus and accordingly it is:

ORDERED, ADJUDGED and DECREED that the EXTRAORDINARY WRIT OF HABEAS CORPUS issue with respect to the Applicant, William Michael Kemp. It is further,

ORDERED, ADJUDGED and DECREED that the present BOND, dated December 12, 1996, which is now outstanding and at issue, be and is hereby continued in full force and effect, pending the final disposition of this matter now pending before this Court, on condition that the Applicant, William Michael Kemp, comply with the requirement that He appear, as Ordered hereinbelow, for a show cause hearing on the propriety of the present restraint upon His liberty. It is further,

ORDERED, ADJUDGED and DECREED that the Clerk of this Court cause the issuance and service of the Extraordinary Writ of Habeas Corpus, pursuant to and in the form as set forth in Alabama Statute 15-21-9, and that the same be directed to be served on the Sheriff of Etowah County, Alabama state, showing a return date for the hearing in this matter set for ____ o'clock A.M. on the _____ day of _____, 1997, before this Court in Etowah County, Alabama state. It is further,

ORDERED, ADJUDGED and DECREED that, pursuant to Alabama Statute 15-21-13, the Clerk of this Court cause service of notice of this Order, as well as service of a true copy of the Writ of Habeas Corpus, showing the return date and show cause hearing date, upon the District Attorney of this Circuit, or upon the Prosecuting Attorney in the case of Alabama v. Kemp, Case No. #CC-95-1083. It is further,

ORDERED, ADJUDGED and DECREED that Applicant William Michael Kemp take notice that said Applicant, having been released from actual custody pursuant to a continuance of the Bond now at issue, as set forth in this ORDER, and conditioned as stated in

this ORDER, is hereby directed to appear before this Court on the _____ day of _____, 1997 at _____ o'clock, ___.M. and then and there to proceed and respond to a show cause hearing to determine the propriety, if any there be, of the present restraint upon the liberty of William Michael Kemp.

Entered on this the ____ day of March, 1997, at Etowah County, Alabama state.

_____
Judge, Circuit Court of Etowah County, Alabama state

# # #

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TO: CIRCUIT JUDGE assigned to the Etowah County, Alabama, case denominated as:

EX PARTE WILLIAM MICHAEL KEMP

FROM: RICHARD HAMILTON HAYWARD

SUBJECT: Affidavit of efforts to file the Extraordinary Writ of Habeas Corpus

DATE: March 26th, 1997

(I'm confused about procedure in filing writs and having them heard.)

On Monday, March 24th, 1997, I lodged a Request for Leave to file A Writ of Habeas Corpus respecting William Michael Kemp with Circuit Judge Roy Moore of Etowah County, Alabama. Judge Moore explained to me that the practice in Etowah County required that the matter be filed and assigned to a judge in the manner prescribed by law and then directed me to file the papers with the clerk of the court. The following morning, Tuesday, March 25th, 1997, I did file the Request for Leave with the clerk. Over my objection, I was required to pay a filing fee. Since this is a criminal matter which is expressly authorized by the Criminal Code, I am understanding that no fee should have been charged. Lodged with the clerk at that time, and submitted along with the Request for Leave to File, but not filed, were the actual Originals to the Application for the Writ which I am requesting specific authority of the court to file. The case was assigned with Circuit Judge Cardwell in regular rotation. After receiving the Request for Leave and the Original to the Writ of Habeas Corpus, the clerk made a phone call to a Judge whom I later learned was Circuit Judge Cardwell. From my one sided view of the conversation, together with the commentary of the clerk afterward, Judge Cardwell apparently was sharply displeased with the filing and directed the clerk to unfile the papers and to further inform me that I was practicing law without a license. Regrettably, I then saw the Clerk unfile the papers and along with my fee return them all to me. Now I was back in the exact position where I started the previous afternoon. I then returned to Judge Moore's office to inform him that I was unable to carry out his instructions and explained the circumstances set forth above. I then requested that Judge Moore sign my previously prepared ORDER granting leave to file the Writ of Habeas Corpus. Judge Moore did signed the ORDER and granted leave to file the Writ. With the ORDER in hand I then returned to the Clerks office to file the papers as originally instructed, and now formally ORDERED, by the court. The clerk filed the Writ. The clerk then assigned the file to Judge Moore's court. Early Tuesday afternoon, on the way to the law library I say Judge Moore and I advised him that the matter had been filed and that the case had been assigned to him. While I was on my way to the law library located down the hall from Judge Moore's office, I happened to meet Judge Moore in the hall where he inquired as to how the case was going. I informed him that the clerk had

filed the matter opened the case and has assigned the matter to

his office. Judge Moore then ask me to come into his office. In that setting he requested copies of the papers and then ask me to leave his office and shut the door. At the conclusion of what apparently were telephone calls, I was instructed by Judge Moore to proceed to Clerks office where I waited for over an hour. After inquiring for Clerk of Court Billy Yates several times, I was told that he would return after completing a jury selection. Following added delay, I returned to Judge Moore's office. After Judge Moore made a phone call, he advised me that Clerk of Courts Billy Yates was in Judge Cardwell's office waiting for me. Arriving at Judge Cardwell's office, I approached the office to find Clerk Billy Yates exiting the Judge's office. Billy Yates introduced himself and advised me that the Judge will hear the application momentarily. District Attorney Hedgspeth then passed me and entered Judge Cardwell's office. Billy Yates then returned to the office leaving the door ajar. Having been advised to wait there at the Judge's door, I could clearly hear the discussion inside. Clearly, I heard Judge Cardwell explain to District Attorney Hedgspeth that he now had the actual Request for Leave of Court to file the Application and the Order Granting Leave to File signed by Judge Moore all of which was filed with the Application for the Writ of Habeas Corpus. District Attorney Hedgspeth then said we have him on 15-21-7 and I'll have Hayward locked up for practicing law without a license followed by a chuckle. Following that exchange Billy Yates opened the door and exited followed by District Attorney Hedgspeth who, with surprise, saw me standing there by the door. Billy Yates then informed me that the matter was going to be heard in five days but was then interrupted by District Attorney Hedgspeth who informed me that I'm the lawyer; you're not. I responded by saying that I was operating on the instructions of Judge Moore to which District Attorney Hedgspeth responded by saying That ORDER is not worth spit. I then responded to District Attorney Hedgspeth's characterization of Judge Moore's ORDER by saying: Well, that's your opinion, Sir. Following this exchange and absent any invitation or opportunity to speak to the Judge, I left the office of Judge Cardwell and then left the building. I am still searching for the proper procedure for filing a Writ of habeas corpus to which Judge Moore referred during my short discussion with him on Monday afternoon when he directed me to go file it. Based on my experience outlined here, it seems as though that the procedures frequently changes, from time to time, depending on to whom your talking; and that neither the clerks, the district attorney, nor the Circuit Judges are quite sure what that procedure might be. I certainly don't know and apparently cannot find out what that procedure might be. All I am trying to do is to file an Application for the Extraordinary Writ of Habeas Corpus in the manner prescribed by Alabama Statute 15-21-4, etc. And it is on the express authority of the Alabama statutes, together with the common law, that I rely for authority to act as I have. If that is a violation of the law, as District Attorney Hedgspeth says, then the Rule of Law as defined by the Statutes of Alabama will have to be changed to conform to his thinking. In the meantime, I am content to rely on the Rule of Law, as distinguished from the Rule of District Attorney Hedgspeth. And I prefer to rely on the Rule of

Law as it is printed in the Alabama Statutes rather than the puzzling but angry opinion of District Attorney Hedgspeth. Further, I see the threats of District Attorney Hedgspeth as stated to Circuit Judge Cardwell as to having me arrested for

practicing law as being the District Attorney's attempt to chill and/or intimidate and/or obstruct my compliance with the strict exercise of authority, and proper exercise of it, pertaining to the Alabama statutes concerning habeas corpus. The District Attorney of Etowah County Alabama, Hedgspeth, knows, or certainly should know, what the law is which authorizes any person to file Writs of Habeas Corpus in Alabama -- but in spite of the law -- District Attorney Hedgspeth apparently is insistent on attempting to thwart the authorized efforts of this citizen while in the act of proceeding strictly and expressly as authorized by Alabama Statute. I regret to note that, while District Attorney Hedgspeth has direct ex parte access to Judge Cardwell in this matter, I have at the same time and in the same case been repeatedly denied direct access to the Judge and have been required to communicate only indirectly through the judges secretary and receiving reply relayed by Clerk Billy Yates and others. Why I am unable to speak to the Judge directly about an ex parte matter which I have personally lodged with the clerk of Courts in Etowah County is a continuing puzzle to me. Further, on Wednesday, March 26th, 1997, I learned from an authorized visit with William Michael Kemp, Applicant on the Writ, while at the Hospital, that he had been served with notice of a hearing on the Writ to be held before Judge Cardwell on Friday, March 28, 1997 at 8:30 a.m. To date, I have not been formally noticed of the hearing on the Writ application that I filed. William Michael Kemp is confined to a hospital room and is under medical care and guarded by Deputies of the Etowah County Sheriff following an apparently near death experience while in the custody of the Sheriff of Etowah County. On late Saturday evening last, I accompanied William Michael Kemp to the Etowah County Jail where he surrendered. At that time he was in good health and needed no medical attention for his insulin-dependent diabetic condition that he has had, as I understand it, for most of his life. I am requesting, in light of these events described above, verified in accordance with law below, that the court, whatever court that this case is properly assigned to, pursuant to the requests made in the pending Application for the Extraordinary Writ of Habeas Corpus, release William Michael Kemp on his recognizance, or other reasonable bail, pending the statutory show cause hearing on the relief requested in Application for the Writ of Habeas Corpus respecting William Michael Kemp. Further, affiant sayeth not.

/s/ Rich Hayward

_____

RICHARD HAMILTON HAYWARD

cc: Judge Roy Moore
Judge William W. Cardwell
Clerk of Courts Billy Yates
District Attorney Hedgspeth

File Jacket: Ex Parte William Michael Kemp
Supreme Court - State of Alabama
CBS News

VERIFICATION

STATE OF ALABAMA)

)
COUNTY OF ETOWAH)

Before me the undersigned authority on this day personally appeared RICHARD HAMILTON HAYWARD who after being duly sworn, did depose and state: "My name is RICHARD HAMILTON HAYWARD. I am over twenty-one (21) years of age, have never been convicted of a felony or a crime of moral turpitude and am competent to make this affidavit. I am the RELATOR in the Application for the Extraordinary Writ of Habeas Corpus now pending before the Etowah County Alabama Circuit Court respecting William Michael Kemp and all of the above and foregoing facts and statements were personally experienced by me in the course of attempting to file and give effect to the said writ and all statements, allegations, denials and attachments contained therein are true and correct to the best of my knowledge and belief."

/s/ Rich Hayward
_____
RICHARD HAMILTON HAYWARD

Given under my hand and seal this _____ day of March, 1997.

_____
Notary Public, In and For the State of Alabama

_____
Name of Notary - Printed

205-663-9000 office of attorney - Bass

I was notice that the hearing has been set for Friday, 8:30 a.m. on 28 March 1997, William W. Cardwell, in Room 209 Etowah County Courthouse.

# # #

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William Michael Kemp, Sui Juris
c/o General Delivery
Gadsden, Alabama state
zip code exempt

In Propria Persona
Under Protest, Necessity,
and by Special Visitation

[D R A F T]

SUPREME COURT OF ALABAMA STATE

STATE OF ALABAMA,	) Case No. _____
	) Circuit Case No. CC-95-1083-DWS
Plaintiff,	) Appellate Case No. _____
	)
v.	) NOTICE OF TREATY VIOLATIONS:
	) Tenth Amendment; Universal
WILLIAM MICHAEL KEMP [sic],	) Declaration of Human Rights;
	) International Covenant on Civil
Defendant.	) and Political Rights; and
	) Supremacy Clause:
_____	) de novo

COMES NOW William Michael, Kemp, Sui Juris, Citizen of Alabama state and Defendant in the above entitled action (hereinafter "Defendant"), to provide formal Notice to all interested party(s), and to demand mandatory judicial by this honorable Court, pursuant to the Tenth Amendment in the Constitution for the United States of America, as lawfully amended (hereinafter "U.S. Constitution"), of United States (federal government) treaty violations in the instant case. Said treaty violations must be addressed by Alabama state, pursuant to the explicit Reservation of legal Rights which Congress specifically attached to the Universal Declaration of Human Rights and to the International Covenant on Civil and Political Rights. Said treaties are rendered supreme Law of this Land, pursuant to the Supremacy Clause in the U.S. Constitution.

Defendant asserts His fundamental Rights, both substantive

and procedural, to Notice and Hearing in a federal court of competent jurisdiction to adjudicate the role of United States (federal government) officers, employees, and agents in providing financial and other assistance to the Etowah County Drug Task Force. Defendant herein alleges systematic violations of fundamental Rights by said Task Force, under color of unconstitutional federal practices and procedures.

To this end, Defendant attempted to remove the instant case into the District Court of the United States ("DCUS"), in order to obtain appropriate relief specifically including, but not limited to, ORDERS compelling the production of documents properly requested under the Freedom of Information Act ("FOIA") and enjoining the improper withholding of same. The federal court of original jurisdiction to issue said ORDERS is the DCUS. See 5 U.S.C. 552(a)(4)(B); American Insurance Co. v. 356 Bales of Cotton, 1 Pet. 511 (1828), 7 L.Ed 242; Balzac v. Porto Rico [sic], 42 S.Ct. 343, 258 U.S. 298 at 312, 66 L.Ed 627 (1921). Compare also 18 U.S.C. 1964(a) with 1964(c).

Two international human rights treaties have been enacted by Congress, pursuant to the Supremacy Clause and the Tenth Amendment, specifically to guarantee the enforcement of fundamental human Rights on behalf of Defendant, who is a Citizen of Alabama state and not also a citizen of the United States ("federal citizen"). See Gardina v. Board of Registrars, 160 Ala. 155, 48 S. 788, 791 (1909). For purposes of the instant case, the most salient of these fundamental Rights is Defendant's unalienable guarantee to due process of law in courts of competent jurisdiction.

Said treaties are unique, in many ways, for having been enacted with explicit reservations of Rights by Congress. The

most salient of these reserved Rights grants legal standing to localities to compel United States (federal government) obedience to said treaties, in the event that the United States (federal government) should fail to perform its legal and moral obligations under same. Given the express legislative intent of the reservation of legal standing for localities, there is no question but that Congress meant to embrace the several States of the Union in its definition of the term "locality." Alabama state is such a member of the Union of several States, united by and under the U.S. Constitution.

Defendant sought to obtain judicial review of the historical role of the United States (federal government) in the provision of financial and other assistance to Etowah County, Alabama state, which is a political subdivision of Alabama state (a "locality"). Defendant's plan to obtain such review included, among other things, one or more FOIA requests to obtain the financial records of the Etowah County Drug Task Force, which is a local administrative agency responsible to receive and disperse financial and other assistance provided by the United States (federal government), under auspices of the United States Drug Enforcement Administration ("DEA").

The federal court of original jurisdiction to compel production of documents properly requested under FOIA is the District Court of the United States ("DCUS"), a court of competent jurisdiction within the territorial boundaries of the several states of the Union, pursuant to Article III in the U.S. Constitution. However, when Defendant applied to said DCUS for a Warrant of Removal of the instant case, for the purposes discussed above, Defendant was denied a hearing by a federal judge who was competent and qualified to preside in said court. See 28 U.S.C. 1441 et seq.

More to the point, Article III guarantees that the compensation of federal judges shall not be diminished during their term in office. See Article III, Section 1. The term "shall" as used therein has a mandatory meaning. Said provision has also been interpreted by the U.S. Supreme Court to mean that the compensation of federal judges cannot be diminished by federal income taxes, notwithstanding the so-called 16th amendment to the U.S. Constitution. See also 28 U.S.C. 461(b). The basis for this guarantee was more fully explained by the Supreme Court in Evans v. Gore, 253 U.S. 245 (1920):

> [T]he primary purpose of the prohibition against diminution was ... to attract good and competent men to the bench and to promote that independence of action and judgment which is essential to the maintenance of the guaranties, limitations and pervading principles of the Constitution.

In Miles v. Graham, 268 U.S. 501 (1925), the high Court explained which amount of compensation is protected against diminution:

> The words and history of the clause indicate that the purpose was to impose upon Congress the duty definitely to declare what sum shall be received by each judge out of the public funds and the times for payment. When this duty has been complied with the amount specified becomes the compensation which is protected against diminution during his continuance in office.

However,

> Evans and Miles were not the last words that the Court was to express on the issue of taxation of judicial incomes. In O'Malley v. Woodrough, 307 U.S. 277 (1939), the Court repudiated both Evans and Miles and held that a non-discriminatory general income tax may be applied to federal judges without diminishing judicial compensation within the meaning of the compensation clause.
>
> ["The Constitutional Guaranty Against]
> [Diminution of Judicial Compensation,"]
> [UCLA Law Review, Vol. 24, pgs. 308-350]

After reviewing O'Malley v. Woodrough supra, Defendant submits that the holding in that case is based on a faulty premise, namely, that there is only one (1) class of citizenship in

America. O'Malley should be overturned: in light of the preponderance of cases which demonstrate two (2) classes of citizenship; in light of newly found evidence; and in light of the notable and demonstrable decline in the American judiciary since 1939, the year the Public Salary Tax Act was first enacted.

The basis for the O'Malley decision is the high Court's mistaken belief that a federal judge can be taxed in his (her) capacity as a citizen, without violating Article III, Section 1, and without compromising the judge's competence and independence. However, there is nothing in O'Malley to indicate that the high Court adequately understood how two classes of citizenship bear on this question (taxing the pay of federal judges). Moreover, there is no law requiring federal judges to be either citizens of the United States, or Citizens of the several states. Therefore, the O'Malley decision is founded on a false premise, namely, that all federal judges are necessarily citizens of either class.

The uncontroverted evidence establishing the failed ratification of the so-called Sixteenth Amendment casts this entire debate in an entirely new light. See People v. Boxer, California Supreme Court, Case Number S-030016, December 1992; Full Faith and Credit Clause. The fundamental guarantees against direct taxation of all citizens without apportionment, and against diminution of the compensation of federal judges, remain as operative today as they were on the day the U.S. Constitution was first adopted. See 1:2:3, 1:9:4, and 3:1 in the U.S. Constitution, which have never been repealed. Repeals by implication are not favored.

Defendant submits that the only logical basis on which these guarantees can now be avoided is the doctrine of territorial heterogeneity. Confer in The Federal Zone: Cracking the Code of Internal Revenue, Fourth Edition, available on the Internet via

the Alta Vista search engine; see also U.S. v. Lopez, 131 L.Ed.2d 626 (1995):

> Each of these [schools] now has an invisible federal zone [sic] extending 1,000 feet beyond the (often irregular) boundaries of the school property.
>
> [emphasis added]

Here, the U.S. Supreme Court utilized the term "federal zone" as a common noun, without any citations or footnotes. The doctrine of territorial heterogeneity, as such, is summarized as follows in the Conclusions of The Federal Zone: Cracking the Code of Internal Revenue, to wit:

> In exercising its exclusive authority over the federal zone, Congress is not subject to the same constitutional limitations that exist inside the 50 States. For this reason, the areas that are inside and outside the federal zone are heterogeneous with respect to each other. This difference results in a principle of territorial heterogeneity: the areas within the federal zone are subject to one set of rules; the areas without (or outside) the federal zone are subject to a different set of rules. The Constitution rules outside the zone and inside the 50 States. The Congress rules inside the zone and outside the 50 States. The 50 States are, therefore, in one general class, because all constitutional restraints upon Congress are in force throughout the 50 States, without prejudice to any one State. The areas within the federal zone are in a different general class, because these same constitutional restraints simply do not limit Congress inside that zone.
>
> [The Federal Zone, electronic Fifth Edition, Conclusions]

In the pivotal case of Downes v. Bidwell, 182 U.S. 244 (1901), which is discussed at several places in the book The Federal Zone supra, the U.S. Supreme Court established a doctrine whereby the Constitution for the "United States", as such, **does not extend beyond the limits of the states which are united by and under it**. This doctrine of territorial heterogeneity is now commonly identified as the "Downes Doctrine."

This doctrine has been reinforced by subsequent decisions of the U.S. Supreme Court, notably, the case of Hooven & Allison v. Evatt, 324 U.S. 652 (1945), in which the high Court ruled that

the guarantees of the U.S. Constitution extend to the federal zone only as Congress has made those guarantees applicable. The United States District Courts are currently established by Congress as territorial (federal zone) courts, with constitutional authority emanating from Article IV, Section 3, Clause 2, to wit:

> The Congress shall have Power to dispose of and make all needed Rules and Regulations respecting the Territory or other Property belonging to the United States; ....
>
> [U.S. Constitution, Art. 4, Sec. 3, Cl. 2]
> [emphasis added]

Defendant submits, for the careful consideration of this honorable Court, an offer to prove that all Union states have unlawfully subordinated themselves to the municipal jurisdiction of the United States (federal government), so as to invoke the Downes Doctrine against Citizens of Alabama state who are not also citizens of the United States. Compare 31 CFR 51.2 and 52.2, and the Executive Order(s) removing said regulations from federal depository libraries. This has had the unconstitutional effect of rendering the corporate State of Alabama a municipal subdivision of the District of Columbia, permitting said corporate State completely to ignore the U.S. Constitution and all of the fundamental guarantees expressed therein, and to impose municipal codes upon Defendant in a manner which constitutes unlawful dominion over the Person and Property of the Defendant.

It is evident now that the United States (federal government) cannot locate a single federal judge anywhere in the federal judiciary whose compensation is currently not being diminished by federal income taxes. In and of itself, this evidence is proof that the United States (federal government) cannot and will not provide Defendant with due process of law,

because relief cannot be obtained from any court in America, state or federal, without a qualified and competent judge to issue said relief.

At a class sponsored by the Law School of the University of Arizona in January of 1997, William H. Rehnquist, Chief Justice of the U.S. Supreme Court, was heard to admit that all federal judges are currently paying federal income taxes on their judicial compensation, without exception. See the essay entitled "The Lawless Rehnquist" commemorating that historical event. Said essay is attached hereto and incorporated by reference as if set forth fully herein.

Moreover, recent research has also proven that the federal judiciary has sabotaged the U.S. Constitution and corrupted laws governing the conduct of the federal courts. This has been done in part by creating the false impression that the United States District Court ("USDC") has territorial and subject matter jurisdiction within the several states of the Union, particularly over criminal prosecutions, when it does not.

The truth is that the USDC is designed to adjudicate matters that arise within the federal zone, and the District Court of the United States ("DCUS") is designed to adjudicate matters that arise within the state zone. This honorable Court will please take formal judicial notice of the fact that the USDC is named on the ORDER of United States District Judge James H. Hancock, allegedly remanding the instant case back to the Circuit Court for Etowah County. The same is true of the ORDER by Circuit Court Judge Donald W. Stewart, allegedly ordering the incarceration of Defendant. This is a fraud upon Defendant, and upon all American People, who enjoy the fundamental guarantee of due process of law. Sedition by syntax is not due process of

law. See Title 28, United States Code, in toto; see also Act of June 25, 1948: "... [P]rovisions of this title [28 U.S.C.] ... with respect to the organization of the court, shall be construed as a **continuation of existing law** ..." [emphasis added].

[M O R E T O F O L L O W]

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